Reply to Schafer: Doing Harm Ethically

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I have been asked to comment on the following circumstances. In a recent issue of this journal, Leslie Danoff, a journalist, expressed dismay that a psychologist devised an "undercover blueprint" to assist the FBI in catching an alleged spy, Theresa Squillacote.[1] The plan that the psychologist devised played on Ms. Squillacote's emotional vulnerability, as a consequence of her apparent mental disorder, to lure her into a situation that would result in her capture. Ms. Danoff asked how a psychologist, "a professional trained to heal," could possibly engage in a plan that was "highly likely to result in harm" to Ms. Squillacote (Ref. 1, p 218).

Ms. Danoff did not claim that the psychologist's behavior was unethical. She simply posed questions similar to the one just quoted, and then cited Dr. Jeffrey Janofsky, a forensic psychiatrist who, during expert testimony, had accused the psychologist of unethical behavior. Ms. Danoff's quotations of Dr. Janofsky's testimony did not offer Dr. Janofsky's logic for his assertion. They simply indicated that he called the psychologist's behavior unethical and said he did not think mental health professionals should be doing such things.

Special Agent (SA) John Schafer, a psychologist with the Federal Bureau of Investigation (FBI), offers a contrary view.[2] His sole argument rests on the assertion that the American Psychological Association (APA) ethics code does not apply outside the client-practitioner relationship and that there was no such relationship between the psychologist and Ms. Squillacote. Absent the applicability of that code of ethics, he argues, what is ethical becomes a matter of one's personal choice, especially regarding the value of catching spies as an end that justifies deception in the interest of the nation's welfare.

It should be noted that according to Ms. Danoff, Dr. Janofsky also asserted that the code of ethics for psychologists was of little assistance in this case, because "the APA [American Psychological Association] ethics guidelines contain little of relevance for practicing outside the doctor-patient relationship" (Ref. 1, p 218).

Ms. Danoff did not absolutely assert that the FBI psychologist's behavior was unethical, but she was disturbed by it because of her belief that psychologists are "trained to heal." Are they?

Moreover, the psychologist's behavior, as described, was obviously deceptive and predictably damaging to Ms. Squillacote, both legally and psychologically. Can we ever condone a psychologist's behavior that predictably will be harmful to a person with a mental disorder?

Finally, both Janofsky and Schafer appear to agree that this situation, because it did not involve a client-practitioner (doctor-patient) relationship, could not be examined from the standpoint of the APA's code of ethics for psychologists. Can it not?

All the parties speaking about these issues manifest fundamental misunderstandings about psychology as a profession and about the ethics obligations of psychologists.

Psychology is Not a Mental Health Profession

First, psychology is not a mental health profession, and a large percentage of psychologists are not "trained to heal." Psychology as an organized field began in the 18th or 19th century, depending on whose history one is reading. It was a branch of philosophy that sought to understand human behavior and to use that understanding to improve the human condition. It has achieved the status of a science as a

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consequence of more than a century of reliance on scientific method for the accumulation of knowledge about human behavior.

During the early part of the 20th century, some psychologists began going beyond the laboratory to engage in "applied psychology." Among the common applications of psychology at that time were the development of educational methods, devising ways to measure aptitudes that would assist in selecting people for jobs and using the results of research on human perceptual and cognitive capacities to help design more effective tools of war (in World Wars I and II). By the 1940s, a small body of psychologists emerged who applied psychological principles to the assessment of mental disabilities and treatment of mental disorders. They became known as "clinical psychologists."

Clinical psychologists grew rapidly in number, and in the past 30 years they have come to comprise the majority of psychologists. Nevertheless, there are large numbers of psychologists in graduate school training today, as throughout each of the past 120 years, who specialize in experimental, physiological, developmental, personality, and social psychology and who receive no training for the practice of psychotherapy or any other "healing" or "clinical psychological" activities. They are trained to teach and conduct research, and sometimes they are consultants for social agencies, corporations, legislatures, or other enterprises. But they are not trained to, will never, and do not care to engage in clinical practices involving a "doctor-patient relationship."

Thus, some psychologists are mental health professionals, but many are not. The fact that the professional who assisted the FBI to confound Ms. Squillacote was a psychologist does not mean that he was, as Ms. Danoff assumed, trained to heal. Even if he was so trained—that is, even if the psychologist was educated as a clinician—it does not mean that he practiced clinical psychology as a service to individuals. Many clinical psychologists do not provide clinical services to patients, but instead engage in research, teaching, and the application of the body of knowledge called clinical psychology for other social purposes, as I will describe later.

Psychologists and Psychiatrists Often Must Do Harm

The belief that psychologists and psychiatrists must never do harm is an overly simplistic notion. We often do things in the normal course of clinical work that require actions that may harm an individual. Examples encountered in everyday clinical practice include (1) mandated breaches of confidentiality in therapeutic relationships, (2) the use of triage in emergency medicine, (3) engaging in clinical research that sacrifices optimal individualized treatment in favor of medical advances for the benefit of future patients, and (4) testifying about personality factors in legal cases (e.g., those of felons in criminal cases or of parents in child-protection cases) that may result in deprivation of liberties and significant suffering. Examples closer in kind to the present case include the psychologist or psychiatrist who (1) contributes as a member of the armed services to projects that may involve human suffering by those living in enemy territory, (2) uses psychological methods to assist law enforcement in identifying and locating a serial murderer, and (3) creates the interview conditions in a court-ordered evaluation in which a person accused of a serious crime might reveal characteristics of psychopathy that will augment the state's arguments for maximum sentencing options.

Does this mean that all these psychologists and psychiatrists are practicing unethically because what they are doing might cause harm? Of course it does not, and the key to understanding this is to examine closely the examples that have been provided. All of them involve two conditions. First, they are within the boundaries of a role that is lawfully prescribed to them by society.[3] Second, they all allow one to potentially justify the harm that might be done when weighed against the social consequences if one failed to risk the chances of that harm. To see the way that this justification process works in ethics analyses, at least for psychologists, we must look into the *Ethical Principles of Psychologists and Code of Conduct*[4] (hereinafter, APA code of ethics).

The APA Code of Ethics Is Not for Clinicians Alone

First, we must establish whether the APA code of ethics applies to psychologists who are not engaged in a doctor-patient relationship. Janofsky and Schafer agree that it does not.

It is difficult to imagine how the foregoing parties might have arrived at this conclusion. The Preamble of the APA code of ethics clearly states that the code is intended to "cover most situations encountered by psychologists," such as "researcher, educator, diag-

nostician, therapist, supervisor, consultant, administrator, social interventionist, and expert witness." Ethics concerns covered in the APA code of ethics refer not only to therapeutic relationships, but also to ethics obligations of psychologists in relation to research participants (animal and human), other psychologists, communities, corporations, and governments.

Therefore, that the psychologist who assisted the FBI investigation was not involved in a doctor-patient relationship in no way sets aside the application of the APA code of ethics for purposes of considering the propriety of the psychologist's behavior. It covers all applications of psychology in every aspect of society, which goes far beyond the world of health care.

Psychologists' Obligations Are to Individuals and Society

If Schafer had not rejected the relevance of APA's code of ethics for the case at hand, he would have been able to analyze the case within the framework of the code. The analysis might have gone something like this.

The APA code of ethics recognizes, from its preamble through to the end of its specific ethics standards, that decisions about one's behavior as a professional often require the weighing of competing positive values. Moreover, in the abstract, the APA code of ethics places no heavier value on our obligations to individuals than our obligations to society in general. Almost every time that the welfare of individuals is mentioned in the preamble, it is coupled with attention to the welfare of society. In the more detailed ethics standards portion of the code, most references to patients are followed by a reference to organizations as well (e.g., Standard 5.01, "Psychologists discuss with persons and organizations . . . the relevant limitations on confidentiality").

When one is in a doctor-patient relationship, of course, any analysis of competing positive values involving the individual and society must begin with a presumption that one's obligation to the patient is paramount. Any action that would potentially harm the patient must involve a very compelling interest in the protection or welfare of others in society to override one's obligation to the patient.

When the case does not involve a doctor-patient relationship, then the analysis of competing positive values seeks what is considered to be the more compelling value under the circumstances. Dr. Janofsky apparently understood this when he said that no psychologist or psychiatrist has any business performing this kind of evaluation, even if it serves the interests of the state. In his view, the harm to the individual as a consequence of the psychologist's behavior exceeded the value to public welfare. In Schafer's view, the value to society in supporting a deception against the suspected spy, Ms. Squillacote, was so important that it justified the psychologist's role in an action that was likely to cause her pain and suffering.

In my view, both Janofsky and Schafer were wrong in presuming that the APA code of ethics was irrelevant to this analysis, but neither is necessarily wrong in his conclusions. What is absent is the reasoning that is critical to weighing the force of their judgments. If either of them had not rejected the applicability of the APA code of ethics, they would have found ample material for framing the debate, as the following phrases from the code's General Principles plainly show:

1. Principle B: Integrity (e.g., psychologists ". . . are honest, fair, and respectful of others. . .")
2. Principle C: Professional and Scientific Responsibility (e.g., avoid conduct that may "reduce the public's trust in psychology and psychologists")
3. Principle D: Respect for People's Rights and Dignity (e.g., respect the "fundamental rights, dignity, and worth of all people")
4. Principle E: Concern for Others' Welfare (e.g., when conflicts in principles of ethics arise, "attempt to resolve [them] . . . in a responsible fashion that avoids or minimizes harm")
5. Principle F: Social Responsibility (e.g., "Psychologists are aware of their professional. . . . responsibilities to the community and society")

Moving on to specific Ethics Standards, they could have framed their debate in reference to such Standards as:

- 1.09, "Respect for Others"
- 1.14, "Avoiding Harm"
- 1.16, "Misuse of Psychologists' Influence"
- 2.02, "Competence and Appropriate Use of Assessments and Interventions"

Merely using the Principles and Ethical Standards in the APA code of ethics would not, of course, have produced a clear winner in this debate. That is Schafer's point. How a professional weighs the competing positive values in cases such as this depends in part on the professional's own values. One professional places more weight on the sanctity of the individual and the damage to the public's perception of "mental

health" professionals whose ethics would allow them to exploit the weaknesses of persons with mental illnesses. Another appeals to the greater good to society when psychology is applied to protect the national interest from political subversion.

The tension associated with professionals' own values as a basis for weighing the relative importance of individual rights and society's interests arises from at least two sources: First, the analytic process may be corrupted by the professional's own values when judgment is influenced by self-serving interests (e.g., personal financial gain or power and prestige associated with the proposed activity). Second, even when they are used with integrity, a professional's values sometimes establish a reasonable platform in principle that does not necessarily justify specific actions. Apprehending criminals is good for society and the welfare of citizens in general, and psychologists may have a role to play toward that end. But the specific actions that this might justify could cover a wide range, involving many levels of deception. Arguing the danger that Ms. Squillacote posed to national safety, would the FBI's psychologists necessarily feel justified in drawing her into a doctor-patient relationship with themselves to obtain information that they could use to lead to her arrest?

Our professional codes of ethics provide ample room for disagreement among reasonable professionals regarding the weight to be placed on an individual's rights and society's interests in regulating our own conduct. But ultimately, even when professionals disagree on the relative weights associated with those interests, they sometimes agree that certain actions are unreasonable responses to either of the principled positions.

That is what Dr. Janofsky may have believed true in the present case. Although seeming to recognize the potential legitimacy of a judgment that weighs societal benefit over the interests of the individual, he believed that the specific actions taken in this case as a consequence of that judgment were unreasonable. These are the types of judgments that often are weighed by professional committees when they adjudicate ethics complaints. But in principle, the mere fact that the psychologist placed considerable weight on society's interests and acted in a way that would harm the individual in question does not violate the APA's code of ethics.

References

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