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Informed Consent: Documenting the Intersection of Bureaucratic Regulation and Ethnographic Practice

Standardized institutional review board (IRB) procedures suggest that informed consent can be enacted in the same way everywhere—across disciplines and across different cultural communities. With attention to documents as artifacts and embedding ethics, I consider consent documents to be located at a productive site for anthropological analysis: the intersection of bureaucratic and ethnographic practice. Through fieldwork that engaged both American Indians in Chicago and museum professionals in Washington, D.C., I was able to view these procedures in a variety of contexts. Unlike the joking references to IRB scripts when interviewing museum professionals, American Indians were wary of such procedures. The particular meaning attached to signing documents varied in these communities and in one case prompted people to challenge and change the consent protocol that I would use in my fieldwork practice. This comparative approach shows how different institutions are represented by and transact through documents in ways that significantly impact the nature of fieldwork relations. [institutional review boards; informed consent; National Museum of the American Indian; American Indians; ethics]

Informed consent procedures are necessary to conduct anthropological fieldwork today and are tied to issues of trust, protection from harm, confidentiality, and bureaucratically enforced ethical practice.¹ This trust exists between the researcher and the institutional review board (IRB) (that the researcher will indeed follow through with consent procedure) and between the fieldworker and her interlocutors (to do no harm). But, in some cases, what is key to fieldwork relations—rapport and trust—is antagonized by the need for signed, written documents that are often part of IRB procedure. Below, I explore how this antagonism, prompted by a document required when tape-recording interviews, provided both ethnographic insight and analytical opportunity during the course of my fieldwork. Approaching ethics as ethnographic object as well as method, I intend not a critique of the use of informed consent documents but rather a response to and examination of the relations they engender in the field.

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Through attention to documents (cf. Riles 2006a), the perspective of “embedding ethics” (Meskell and Pels 2005),² and “disciplinary ways of knowing” (Lederman 2006b), I address informed consent on two levels: the forms of consent procedure, and the foregrounding of specific kinds of research relations when written consent procedures are enacted. I draw on two different periods of research, the first in which I was a staff fieldworker for the National Museum of the American Indian (NMAI) working with Native American communities from 2001 to 2003, and the second when I was a Cornell University graduate student in anthropology “circling back” (see Riles 2006b) to these same sites with my own consent forms in 2004.³

During this latter period, unlike the knowing and joking references to “human subjects” scripts when interviewing museum professionals, members of the American Indian community were wary of such procedures. Signing documents has a particular historical and symbolic meaning for many people in this community, which prompted them to challenge and eventually change my consent protocol. This comparative approach shows how institutions are represented by and transact differently through documents in ways that significantly impact the nature of fieldwork relations, that the institution behind the document matters, and that a third actor—the “research subject”—can become an important mediator in the relationship between the IRB and the researcher.

Bureaucracies of Virtue

My work as a curatorial research assistant for, and my fieldwork as a Cornell University student about, the NMAI has provided me with a unique comparative view of informed consent practices—from small indigenous communities to metropolitan organizations, from institutional to individual research programs, and from government to university bureaucracies. Both the NMAI and the Cornell University Committee on Human Subjects (UCHS) are sites of bureaucratic practice that define and require specific forms of written consent procedures in order to conduct fieldwork.

Both the NMAI and the UCHS were created and developed in part to right past wrongs, whether they be the stereotyping of Indians and desecration of their burial grounds⁴ or biomedical experiments gone wrong.⁵ They are indeed “bureaucracies of virtue,”⁶ declaring their ethical commitments and engaging in and regulating the “right” ways in which to work with people. For example, in an article describing the guiding principles and exhibit-making at the NMAI, Craig Howe, the former deputy assistant director of cultural resources, explains how collaborative exhibit development with Native American communities establishes “a moral and ethical relationship” between them and the museum (Howe 2001:32).⁷

The process of exhibit development at the NMAI, referred to by NMAI staff as “community curating” or “co-curating,” whereby the museum collaborates with

representatives of Native communities through regular meetings to develop content for their exhibits, can even be seen as informed consent writ large—literally. The product of this collaboration includes exhibit text panels, all of them authored—we could say signed—with community members’ names below the text. In other words, the authored text panels form a sort of symbolic consent to the representations presented of them in the gallery. These text panels are an artifact of the exhibit-making process and philosophy of the NMAI that in effect legitimate the mission of the museum and its stance as an ethical institution vis-à-vis Native American peoples.

The UCHS, too, uses the language of virtue, declaring that it “exists as a safeguard to promote ethical and responsible treatment of human subjects/participants in research” and that “researchers’ informed participation in this process helps to ensure a positive, ethical, and responsible climate for scholarly research at Cornell University” (UCHS 2006). The management of bureaucracies of virtue such as the NMAI and the UCHS, like other bureaucracies, relies on written documents (Weber 1968:67). And, the consent form is the quintessential document of this kind of bureaucracy, for it is through these documents that it attempts to regulate ethical research practice (cf. Meskell and Pels 2005:10).

Ethical Practice

In 2001, I became the lead researcher in the Curatorial Department for the *Our Lives* gallery, an exhibition about contemporary Native identities at the NMAI, which later opened in 2004. To develop *Our Lives*, the museum partnered with cocurators from eight Native American communities, including the urban Indian community of Chicago. The research program for the gallery included interviewing and tape-recording members of these communities. The NMAI provided the research team with a “release form” for Native community members to sign. The language of this document read as a releasing of rights or control over one’s image and words, stating that the participant agreed that the NMAI may use his or her image and words in any way the institution sees fit.

The lead curator of the gallery, Dr. Cynthia Chavez, and I read this form and chose to create and implement a different document, one that complied more with the notion of “informed consent” which was very much in line with the exhibition philosophy that Howe (2001; see also West 2000) describes or what I call a “collaborative ethic” espoused by the NMAI Curatorial Department. This new document shifted the “protection” from the institution to the individual, stating that the recorded information is “for use in the NMAI’s *Our Lives* exhibition and potentially for use in publications related to the NMAI’s exhibits.” Furthermore, the reconstructed “release form” stated that the undersigned “understand[s] that any additional uses of my interview or image—besides use in the exhibit or related publications—must be submitted to me for my prior approval” (see Appendix A).

This caveat was added due to the sensitive nature of the conversations curatorial staff members were having with Native cocurators about Native identity, their lives, and their concerns for the future. Curatorial staff characterized these conversations as frank, open, and based on a trusting relationship between NMAI staff and the cocurators. Much of recorded conversations were never included in the exhibition texts, in part according to the Native cocurators expressing that they felt certain information was private and not appropriate for a public audience. There was a fear, then, by NMAI staff on behalf of cocurators that parts of conversations could be decontextualized and misrepresented in the future (by other NMAI departments or outside researchers). Therefore, this shift in the document's wording conformed more to ideas of protection from harm for the participant, rather than releasing all rights to the museum.

Furthermore, as the NMAI is a U.S. government institution, and "Indian people have become extremely wary of promises made by the federal government" (Deloria 1988:49), the NMAI staff was very attuned to this history as it entered into relations with Native communities on behalf of the Smithsonian. For example, in his introduction to a talk about his work at the museum, NMAI curator Paul Chaat Smith said,

The National Museum of the American Indian project rests on a set of exquisite contradictions. The federal government has not always been a friend of Indian people. In fact, the U.S. for much of its history has targeted Indians for removal and destruction . . . we're also not too crazy about museums, and of all the museums in the world we probably like the Smithsonian the least. [2005]

Similarly, in a 2004 interview an NMAI senior manager mentioned the NMAI-sponsored consultations with Native peoples in the 1990s that asked what they wanted in a national museum, recalling how one Native leader addressed him in a public forum, saying, "Well, you know the Smithsonian is the house of evil."

The museum's commitment to collaborative methodologies as a way to counteract this institutional legacy and the fear of potential harm in misrepresentation or decontextualization are evident in Howe's comment that "history is replete with good intentions from museums gone awry. Therefore, the [community-curating] process is necessarily iterative, takes place over a period of time, and considerably de-centers the traditional authority of the museum" (Howe 2001:32; see also West 2000). By 2000, when the community-curated exhibits were in development, a curator who worked with Native community members explained to me, "All of the communities were really thrilled to work with the National Museum of the American Indian . . . and really believed in the notion that the museum was putting forward Native voice."

Although Dr. Chavez and I had reworded the NMAI release form for the *Our Lives* gallery used in 2001–2002 to resemble informed consent with implied protection

from harm, it was also imbued with the traditional authority of a Smithsonian institution. Whether because it was written with the aim to increase participant's control over their contributions, the reputation of the Smithsonian was changing in Indian country, or because it was necessary in order to participate in the exhibition, in the process of fieldwork, the *Our Lives* release form was not met with resistance; Native people read the form carefully and signed it willingly.⁸ Perhaps with the insertion of the formal document into the research relation, the Smithsonian was represented in all of its prestige through the symbol of its logo at the top of the page. Somehow, it made the interaction seem more official.

* * *

In 2002, I left the NMAI to begin graduate studies at Cornell University, and in 2004 I began my fieldwork about the NMAI community-curating process. I had already gained approval for my research design and documents through the UCHS, having prepared consent forms for tape-recorded interviews and a script to read to people I would encounter during the course of my research. I was free to develop the consent form in my own words, and once again I created a document in which the protection of and stipulations provided by research participants were emphasized.⁹

My fieldwork began at the museum. While I was there, I spoke by phone with Joe Podlasek, the executive director of the American Indian Center (AIC) in Chicago, another field site I would be visiting the following year. Joe is a member of the Lac Courte Oreilles band of Ojibwe and runs the AIC, a nonprofit organization or "501(c)3," as he calls it. The other cocurators of Chicago, like most urban Indian communities, have diverse tribal affiliations and occupations, which is part of the uniqueness of the Chicago exhibit in the museum. These cocurators, like Joe, had been asked and agreed to sign *Our Lives* release forms by the NMAI. However, when I faxed him my UCHS consent form to review, he called to express his concern about the use of written documents in the American Indian community and his reluctance to sign it.¹⁰

Again, signing documents is often considered reminiscent of treaty signing and other dubious federal promises. Vine Deloria, Jr., a widely respected Native thinker among American Indians, explains that it is this shared history that binds together a whole generation of American Indians: "The betrayal of treaty promises has in this generation created a greater feeling of unity among Indian people than any other subject" (Deloria 1988:48–50). In fact, over the course of time, I learned that it was somewhat of a truism and a part of Indian humor that American Indians are wary of signing documents.¹¹

Although it was clear that Joe wanted me to include the Chicago community in my research program, I became concerned that I would be unable to work with this community because having these documents signed was a requirement by the UCHS. I spoke with two NMAI curators about this issue, as clearly they too had, in the course of their work, asked American Indians to sign papers. One curator

said the problem is that the UCHS document is “just so legal looking.” Another said that the problem with the consent form was that it inserted the institution of Cornell between community members and myself, and that once “institutions” come into the mix, Indians are very, and rightly, “skeptical.” He also pointed out the manipulative power inherent in saying “sign these documents, or you can’t participate.” I decided to find out if I could demonstrate consent in a way that did not include signing documents, so I voiced my concerns to the UCHS.

In an e-mail to the UCHS representative, I used what I later learned from NMAI staff was an effective device when they wanted to accomplish something on behalf of community curators that was contrary to bureaucratic practice or departmental consensus-based decision making: they would say “the community wants it this way.” Essentially, that is also the tactic that worked to change my UCHS protocol as I relayed Joe’s concerns and invoked the need for “cultural sensitivity.” I wrote about how the “relations between native and non-native peoples, institutions and native peoples . . . in this study create a real matter of cultural sensitivity to this particular form of agreement,” that I did “not want the signing of a piece of paper to compromise this wish” to participate, and that it “places me in a role of representative of an institution rather than individual researcher” (personal communication, July 7, 2004). I was asked to file an amendment for the change in the process, and it was approved.¹²

I called Joe to thank him for helping me to improve my research protocol. I explained that I was now permitted to ask for oral consent while tape-recording, as he had suggested, rather than requiring a signed document (see Appendix B). He said this would make it “a hundred times better” to work with community members, especially because it is not a *premade* document; he said it was better because it was more “flexible” and community members could discuss their own stipulations for consent and use of the material. Then he added that it is important for him to “protect the individual” in his community.

With this change in procedure, I also began my interviews with NMAI staff. I spoke with people about how Joe had helped me to change my protocol, which pleased them (no doubt because it is in line with the NMAI ethical commitment to collaboration mentioned earlier). I first would explain my research project to an interviewee and then ask, “Would you mind if I record our conversation?” I would get their approval and then recite my research script. In one interview with an anthropologist who was working on an upcoming exhibition, after she agreed to be recorded, I said, “OK, then I have to say my little spiel” about the ways in which the recording could be used. She laughed, and asked, “Human subjects?” And I said yes, laughing apologetically. It was a moment where we were both complicit, in our joking, critical of the bureaucratic hoops we must jump through. There was no resistance or negotiating. She said she had had to do the same thing when she did research for her degree. This eye-rolling compliance to formalized consent occurred a number of times during my interviews with NMAI staff

(a group of bureaucrats themselves in many ways, former coworkers, and sometimes also anthropologists).¹³ Therefore, the interaction between my interlocutors and I—both at the museum as reluctant participants in formal procedure and with the Native Chicago community as coproducers of my research protocol—solidified, rather than undermined, the trust in our research relationships.

The consent form, then, is an actant that sets people into action, as well as an institutional symbol in an existing cultural context. Documents, signatures, and logos all become interpreted differently by those with whom we work, and are incorporated into existing “systems of trust” (Fluehr-Lobban 2003:173) or distrust.¹⁴ Representing the NMAI in exhibitionary practice, the document represented and formalized what was a (desired) relation between Native communities and an institution. However, when the institution of Cornell UCHS was inserted into what otherwise is conceived of as an intimate relation between individuals, the response was more skeptical. The people I worked with wanted a relationship with the Smithsonian NMAI institution as institution, and they welcomed the curator or researcher who came as a representative of the institution. But, it seems they did not want a relationship with the institution of Cornell University, which suggested the relation of researcher to research subject, rather than a co-productive relation, that inhered in the nature of that signing practice.

The Intersection of Bureaucracy and Ethical Practice

As Riles explains, “Documents anticipate and enable certain actions by others” (2006a:21). In other words, the line at the bottom of the page anticipates a signature. It appears that, much like Bruno Latour’s concept of an actant (see Akrich and Latour 1992:259), a faxed consent form awaiting a signature in Chicago set into motion a cascade of social actions, alliances, and ethical commitments.

The changes made in the *Our Lives* release form by NMAI staff and the shift to orally recorded consent in my fieldwork protocol exemplify ethical acts that have been mediated by bureaucratic procedure. By focusing on the consent form in fieldwork relations, I provide another instance in which there is an opportunity to bring “the moment of ethnographic observation into the moment of bureaucratic participation” (Riles 2006a:17); but, in this case, it is not through participating on an IRB or in a grant proposal review like Lederman (2006b) or Brenneis (2005), but as a moment in which my interlocutor and I became involved in bureaucratic participation (or rather, nonparticipation) with the IRB. This collaborative nonparticipation, or reorientation of ethical research practice, became an unanticipated moment of analytical insight about the nature of a virtuous bureaucracy and its impact on fieldwork relations.

Brenneis explains that “the anticipation of review” shapes research design (2005:240). When preparing for the UCHS requirements, I produced the consent form in a routine way according to guidelines for recorded interviews. It did not occur to me to make a case for exemption, though I doubt I could have

done so without Joe's assistance. I completed the forms as requested even though I was wary of inserting documents between my interlocutors and myself because of the sense of formality it introduced.¹⁵ This anticipation of review indeed shaped my research practices, and Joe's intervention provided me a way to reshape them.

Joe's request also provided me with the opportunity to, according to his point of view (and mine), act ethically. By invoking reluctance of Indians to sign documents, there is a recognition of an identity of shared oppression by federal institutions. This is perhaps a practiced turn of phrase and form of resistance, much like my appeal to "cultural sensitivity" was to the UCHS or the instrumentalization of "culture" that Riles describes as a "performance of dissent" in the legal human rights regime (2006b:54). I believe this was also an opportunity for Joe to see if I would change my protocol, or "go to bat" for his community against the bureaucracy. In doing so, I performed an important, recognizable act of ethical commitment in the eyes of this community.

I wholeheartedly welcomed Joe's idea for how to change my consent protocol but was unsure of how the UCHS would respond. Ironically, it was the consent form itself that presented a risk—the possibility of symbolic harm through insensitivity to a shared cultural past. But it seems there is a place for cultural difference, an opportunity for exception. This, perhaps, is a part of the ethical commitment of the UCHS: for "culture," or cultural sensitivity, invoked in the IRB language of risk-benefits, succeeded in waiving written consent for recorded interviews. The culture concept therefore has efficacy in the bureaucratic discourse for IRBs, and Joe, a bureaucrat himself in charge of a cultural institution, likely understood more so than I how "culture" transacts in this milieu.

Using culture in this way provides insight into anthropologists' and the UCHS's implicit assumptions about "best practice" (cf. Lederman 2006b:483). At issue was the orientation of control over the recording process—being open to oral instructions by community members versus a prewritten form—as to how consent would be obtained. By invoking Joe's concerns to the UCHS, we achieved and performed a better protocol as well as provided what the UCHS representative felt was an appropriate alternative for documenting consent.

Changing Fieldwork Relations

In these examples of documenting consent, each institution engendered a different response to its representative documents in the field. Whereas Smithsonian forms were signed willingly, the UCHS documents were met with resistance. This comparative insight shows how we were hailed or interpellated (Althusser 1994:132) differently by these two consent forms and how these documents structured our interactions at the start of the research period in a very particular way.

It seems that when informed consent becomes bureaucratically regulated, it takes on the form of established legal practices and compels legal relationality. As IRB

practices become more formal and routinized, more “legal looking” (and more recognized as such by our interlocutors), this shift to legality that is part of informed consent today makes us reconceptualize *ourselves* as well as the research participants with whom we work in the field (cf. Shore and Wright 2000:62). We are not only interlocutors or coparticipants with our “research subjects” but also bearers of documents, institutional representatives, cosigners, and consent brokers.

For many years “research subjects” have been “better informed and more sensitive to being researched” (Chambers 1980:340). This is most evident in anthropological research with American Indians. The NMAI has endeavored in part to respond to this sensitivity through changing the nature of interaction between researchers and their “subjects” in museum practice. If we consider the rhetoric and practice of the NMAI, it very much follows what I call a “collaborative ethic,” where its accountability is based on an iterative process of meeting with Native Americans who, as cocurators, coproduce content in the exhibit gallery. When I entered the field as a fieldworker and representative for the museum, this relationship was clear: the community members were collaborators. When I returned with the informed consent documents of the UCHS as an independent researcher, the community members were placed in the position of “research subjects”—a familiar position vis-à-vis the “anthros” with all the associated stereotyping and antagonism by American Indians (Deloria 1988:78–100)—as indicated by the “Human Subjects” small print on the form. The UCHS, then, follows what I would call a “contractual model” for ethics.¹⁶

Having been “raised on Deloria” myself, I too “fully expected resistance to my presence” from American Indians just as Elizabeth Grobsmith explains in “Growing Up on Deloria” (1997:39). And there was resistance of a particular kind—to the need for signed Cornell UCHS forms.¹⁷ This is in part because the “contractual model” is precisely the relation in which government and other bureaucratic institutions have approached American Indians in the past, much to their detriment, and can in some cases represent the antithesis of ethical practice to Native individuals.¹⁸ Museum workers and anthropologists have been highly suspect in the minds of American Indians due to this history (see Howe 2001; Deloria 1988; King 1997; Medicine 2001; Nason 2000). However, it is not only American Indians who are wary of the contractual model: ethnographers as well are highly suspect of the intrusion of bureaucratic institutions, even “virtuous” ones, into the research relation (see for example the collection of essays in *American Ethnology* 33[4] and *Social Problems* 27[3]).

If we consider, then, how bureaucratic consent documents put into effect certain kinds of relationality in fieldwork relations, it is a foregrounding of contracted parties in a legal agreement with an institution. It is a relationship with not only the individual fieldworker but also an institution; it is a relationship that at some point must be rendered in legal terms, mediated through the practice of offering

a document that may or may not be signed, and in a way determined by the required completion of this practice. In the examples I described above, it seems clear that, even though the NMAI is a government institution with its own sketchy history with American Indians, signing for the Smithsonian meant one thing, but to sign something presented by an individual researcher—an “anthro” no less—meant something else. Perhaps it was due to the relative power of the consent brokers; perhaps it was about the foregrounding of community members as cocurators or coproducers versus research subjects. The result was at one time acceptance, another joking compliance, and yet again distancing or even offensive.

In any case, the façade of personal relations is broken by the insertion of the institution into the relationship, even if sometimes that relation is solidified by the legitimacy of the institution. Although the NMAI consent form may make a relationship seem more official, the UCHS document in many ways presupposes problems of trust between the researcher and the participant, who is in need of institutional protection. As the “ideal professional anthropologist” becomes accountable, in explicitly legal terms, to the people he or she studies (as well as to the IRBs that oversee them), Peter Pels’s image of the anthropological self that is “potentially duplicitous” also comes into plain view (2000:139). But this potential duplicity is something American Indians have recognized and experienced for more than a hundred years; it is only more recently that this is how we and therefore IRBs see ourselves, in part a response to a legacy of exploitation.

Moral “Orders”

Beyond this legacy of exploitation, another reason Joe indicated that the consent form was undesirable was that it was already made; he emphasized the importance of “flexibility” in working with members of the American Indian community of Chicago, wanting to give them an opportunity to provide their own measures of control over the constraints and guidelines of the research encounter. The prewritten consent form, then, is one example of “ethics in advance” (Strathern 2000:295). Similarly, in his discussion of the “paradox” of informed consent and fieldwork relations, Wax (1980) compares written informed consent to a couple agreeing in writing to be intimate before being acquainted or courting each other (275).

Anthropological encounters with documents created by bureaucracies of virtue, with their moral “orders” on how to conduct research, highlight the conflict between the epistemology of ethnography and that of IRBs, which is based on biomedical disciplines. In her discussion of IRBs, Lederman (2006b) addresses how bureaucratic ethics in advance come into conflict with what she calls the “openness” of ethnographic practice which often entails “informant-generated constraints” (Lederman 2006b:485) and a “*disciplined relinquishment of control*” over the research context and relations (Lederman 2006b:485). Lederman (2006b) also reveals how the assumption of one standardized model of best practice in IRBs

conflicts with the various different “disciplinary ways of knowing” in research practice (486).

In other words, disciplines like anthropology, biomedicine, and social psychology are “moral orders,” she explains, with their own understanding of best practice and assumptions about control over the research encounter (Lederman 2006b:484). IRB regulations are also predicated on the notion that researchers and participants have “radically different agency” and that the research subject is always in need of third-party mediation by the IRB (Lederman 2006b:488). What resulted from the collaborative ethic is that, in my case, Joe reversed this: he was the mediator in a way between the IRB (giving me the authority to change my protocol through his appeal) and myself, as well as between the IRB and his community. For Joe, best practice was about demonstrating my willingness to subvert the demands of the bureaucracy. Best practice was to challenge me to reorient the control of research relations in the community through changing the protocol for documenting consent.

Conclusion

I began this essay with a commitment (following Riles 2006a) to follow my research participants’ interest in documents, specifically consent forms. Unlike the important work of Laura Stark, Rena Lederman, and Don Brenneis, my attention to informed consent is not about revealing an IRB’s internal social dynamics or procedures, nor is it based on fieldwork from within the institution. Rather, my intention was to seize on an ethnographic moment that consent documents set into motion.

Through a comparative experience of documents in the field, I detailed how different institutions and their forms of ethics—collaborative and contractual—engender particular kinds of fieldwork relations. I discussed how the intersection of bureaucratic and ethnographic practice is a productive location in which to embed ethics and to better understand how epistemological differences between IRBs and fieldwork practice are rooted in the conflict between the bureaucratic necessity of prefiguration and the ethical commitment to openness in ethnography. What comes to the fore is the issue of control, which in turn is at the heart of ethical practice. American Indians are wary of control of their representations in others’ hands, as they have suffered from representational violence again and again over the years, the practices of anthropology and museums most definitely included. The fear of decontextualization was evident in both Joe’s and NMAI staff’s efforts in crafting consent protocols.

Therefore, the symbol and actant of ethics and consent for the IRB—the signed document—was valued quite differently in the Chicago Indian community at different times. Being cognizant of this context is key to embedding ethics. Meskell and Pels (2005) discuss the “‘duplexity’ of research: the fact that engagement with people living in one’s field of study requires one to negotiate ‘other’ values

instead of implicitly assuming that our principles of ethics and expertise are universal”; they add, “rethinking ethics implies rethinking expertise, and that implies rethinking modernity as well: as something that emanates not from ‘us’ but from interaction” (8). In other words, the shift to collaborative research relations in the field and in the museum compels a rethinking of our ethical commitments and consent practices, and a refiguring of our research relations as well as recognition that ethnography and the museum are indeed coproduced by researcher and participant.

In my own fieldwork, when possible, I employed multiple devices that were suggested to me by Native community members with whom I worked to achieve informed consent, including providing articles for community newsletters, making community presentations with cocurators, and making announcements on local radio. In addition, I attempted to engage my interlocutors in the process of creating and refining the consent forms used in my research. This approach reflects my wider commitment to a methodology of symmetry (following Bruno Latour) in fieldwork relations—in what I call a professional-to-professional relationship—and an attention to the ways in which an institution can come to bear on the nature of the fieldwork relation.

In the end, it seems by collaborating to resist one form of ethics (contractual), I became involved in another (collaborative). Perhaps, then, we can include a third in the bureaucratic relation of ethics monitoring; along with the IRB staff, the “research subjects” can contribute to determining with us what is best practice in their own communities. To paraphrase one NMAI staff member fully steeped in the collaborative ethic, we should not ask Native communities, what color do you want the wall to be in your exhibit—red or white? We should ask, should there be a wall at all?

Notes

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1. Informed consent, as a “formal legal-ethical construct,” is only about twenty years old; and although it is an old issue in biomedical ethics and behavioral science research, it is a relatively new one in anthropological codes, methods, and discourse (Fluehr-Lobban 2003:159, 232). I consider informed consent to mean the “fullest possible disclosure of the goals and potential uses of research *before* it is undertaken” (Fluehr-Lobban 2003:168).

2. Embedding the ethics of consent practice “allows for a focus on the sites and materials, the bodies, the conversations, the charts and writings and committees—in short, the material culture of expert and ethical behavior—that constitute ethical practice at the core of rather than exterior to research” (Meskell and Pels 2005:10). Accordingly, I focus on the material culture of expert and ethical behavior that anthropologists encounter regularly, the documents that are intended to produce and guide the ethical researcher: informed consent forms.
3. See Riles (2006b:63) for further discussion of the challenges and opportunities associated with “circling back”—where one goes to anthropology to find answers rather than questions, returning as a fieldworker to a former site of practice.
4. In Rick West’s speech to the Press Club, September 9, 2004, he quotes former secretary Adams: “The National Museum of the American Indian represents a fundamental turning point for the Smithsonian. *It begins to correct a vast wrong*, and all the myths and stereotypes with which we surrounded it in order to hide it—or at least not to have to confront it ourselves. It envisions a partnership of a new and unprecedented kind—with those whose history and culture, once torn away from them, will now be represented only with their full complicity” (West 2004:10; my emphasis; see also West 2000).
5. See Fluehr-Lobban (2003) and Lederman (2006a) for historical background of IRBs and informed consent procedures; for further discussions of their impact on the field of anthropology, see also the “Ethical Problems of Fieldwork” in *Social Problems* 27(3) Feb 1980 and “AE Forum: IRBs, Bureaucratic Regulation and Academic Freedom” in *American Ethnologist* 33(4) Nov 2006.
6. This term comes from the title of “The New Bureaucracies of Virtue” conference at Cornell University, Ithaca, New York, October 26–28, 2006.
7. At the “core” of this perspective is:
 - a commitment to an evolving relationship between a museum and a source community in which both parties are held to be equal and which involves the sharing of skills, knowledge and power to produce something of value to both parties. This is very different from the traditional curatorial approach in which museum staff, on the basis of professional knowledge and authority, control exhibition content, storage facilities, and other museological functions. [Peers and Brown 2003:2]
8. This is quite different than the signing of documents as a meaningless routine that Marie-Andrée Jacob (this volume) describes in her ethnography, where consent forms are illegible and laughed about.
9. Fluehr-Lobban (2003:165) discusses the issue of protecting research participants and how it should not always be considered negative in the sense of paternalism.

10. This was somewhat of a miscommunication—I had sent him an *institutional* consent form that stated that the AIC was aware that I would be coming there as a volunteer as well as a researcher, and it provided information about my research. He thought this form was for everyone. However, I *did* have a form for everyone to sign who participated in tape-recorded interviews. So, the problem of signing documents was still an issue. After our discussions and my effort to change the protocol for interviews, Joe willingly signed the institutional release form as head of the AIC.
11. See Grobsmith (1997) with respect to American Indians signing forms for health research; see Wax (1980) for wariness by research participants in general mistrusting signing documents.
12. Later the UCHS insisted I get release forms signed for any photographs I was taking, for which I had also been receiving verbal consent. The new form said, “I also grant *Cornell University* the right to distribute, display, broadcast, exhibit, and market any of said Recordings, either alone or as part of its finished productions, for commercial or non-commercial purposes as Cornell or its employees and agents may determine.” What strikes me is that the university institution is the main actor, and the researcher virtually disappears in this document.

Here, the imposition of the university bureaucracy into the fieldwork relation is clear. This request of fieldworkers requires further consideration as to the proprietary rights of the university institution over fieldwork data.
13. See Lederman (2006b) for how fieldwork with colleagues can sometimes come into conflict with IRB procedures; she asks if the “logic of protection” is appropriate when working with colleagues (488).
14. In her discussion of Lyke’s research in 1989 with non-Western women and their resistance to signing informed consent documents, Fluehr-Lobban explains how these women saw it as an “assertion of their control over the ground rules for their voluntary participation in the research.” Informed consent in this case “symbolized the chasm between the demands of research within the university environment and the system of trust that was already a part of the research collaboration” (Fluehr-Lobban 2003:173).
15. I am not suggesting that the UCHS is concerned with only the legality and the formalities of documents rather than ongoing consent in research practice; in fact, I believe my example runs counter to this assertion. Brenneis notes that informed consent requirements may be waived if the IRB considers the project to be “minimal risk” and specific conditions are met (2005:247). However, because I was using a tape recorder, I was originally told the written form was required.

16. There has been a significant shift in the language of the UCHS website since the original draft of this paper: its name has been changed to “Institutional Review Board for Human Participants” (<http://www.irb.cornell.edu/> accessed 6-19-07).
17. Vine Deloria, Jr., once described informed consent as “somewhat akin to firing the warning shot immediately before the fatal bullet is sent on its way” (1980:270).
18. During the “Papering Ethics, Documenting Consent: The New Bureaucracies of Virtue” PoLAR Symposium at Cornell University on October 27, 2006, Marilyn Norcini presented a paper titled “An Ethnography of Consent: A Pueblo Indian Perspective” about a research agreement between a Pueblo Indian government in New Mexico and a research university in Pennsylvania. This is an example of how a contract can be seen as beneficial by Native peoples through ensuring equal partnership and mutual benefit in relationships with institutions as well as making them accountable for their promises. But again, the contract was part of a “collaborative project.”

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APPENDIX A



Smithsonian
National Museum of the American Indian

NMAI RELEASE FORM

I give the Smithsonian National Museum of the American Indian (NMAI), its employees, legal representatives, and agents, permission to interview, record, audiotape and/or videotape and photograph/film me for use in the NMAI's *OUR LIVES* exhibition and potentially for use in publications related to the NMAI's exhibits.

I understand that these images, tapes, and transcripts of interviews will be placed in the Archives of the NMAI.

I understand that any additional uses of my interview or image—besides use in the exhibit or related publications—must be submitted to me for my prior approval.

I understand that the Smithsonian will not use my name, likeness, voice, signature, or any aspect of my presentation for commercial purposes unless I have granted prior written consent.

Notes:

I have read and fully understand this release form.

Print Name: Tribal affiliation(s):

Signature

Date:

Contact address:

Phone number/email address:

If person is under 18 years old, parent or legal guardian's signature is also required.

Guardian's Signature:

Date:

APPENDIX B

Documenting the Making of the *Our Lives* Exhibition:

Collaborative Exhibit Development at the National Museum of the American Indian

VERBAL CONSENT: SCRIPT FOR TAPE RECORDED INTERVIEWS

Brief Project Description:

I am a PhD student in Anthropology at Cornell University. For my dissertation, I am documenting the making of the *Our Lives* exhibition at the National Museum of the American Indian (NMAI). I am conducting an ethnography of the *Our Lives* process by spending time with and interviewing people involved in the development of the exhibit or members of communities who have worked on the exhibit. While I am an independent researcher and not working directly for the NMAI on this study, I have the support of the museum and will be providing them constructive information based on the results of this study.

Your Participation:

By indicating your consent to be interviewed on tape, you are agreeing to participate in this study and that materials from our conversation can be used for my research purposes.

There are three ways in which a tape recorded interview may be used: the first is to contribute to an evaluative report to the NMAI, and this will not include individuals' names; the second is for my own dissertation research and publications related to it; the third is that, if you would like a copy of the interview transcript for your records or to use for your own writing about your experiences, I will ask at the end of the interview while taping if you would like a copy.

If you at any time wish to remain anonymous, or want a particular statement to remain anonymous, I can use a pseudonym or generalize your statement so that you are not identified with it. Also, if there is anything that we have discussed that you would prefer that I not mention in this study, please let me know.

Your participation in this study is of course entirely voluntary, and you can end your involvement at any time.

Do you have any questions?

Would it be all right if I use a tape recorder?

[If the participant says yes, begin tape recording]

I am here with _____. [Participant's name]

Is it all right if I tape this?

Would you like a copy of this transcript?

If you have any concerns or complaints, you may contact the Cornell University Committee on Human Subjects by email (uchs@cornell.edu), phone (607-255-5138), or online at (<http://www.osp.cornell.edu/Compliance/UCHS/homepageUCHS.htm>).

Consent form approved by the UCHS on [7-9-04].