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Principles, virtues and care: ethical dilemmas in research with male sex offenders

Running title: Ethical dilemmas in sex offender research

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Abstract

This paper considers ethical dilemmas associated with research with male sex offenders. It examines two particular areas in detail: dealing with the disclosure of previously undisclosed offences and managing the distress of research participants during interview. Within these areas there is discussion of ethical approaches to research. Principle-based approaches offer abstract guidelines that help to resolve certain issues, but at times they may fail to be sufficiently flexible in complex situations. Character-relationship approaches to ethics are more concerned with the practical process of research and focus on the dynamic aspects of ethical conduct in research practice. However, ethical approaches to research do not stand separate from other methodological issues. The paper considers the relationship between epistemological positions and ethical approaches and explores this through the analysis of a case study.

Key words: ethics, research methodologies, epistemology, sex offenders

INTRODUCTION

This paper is about ethical construing of research and the ethical conduct of research with male sex offenders. Construing a research project with men who have sexually harmed other people inevitably raises questions of risk: risk of harm to known and unknown others, to the offender and to the researcher. Responding to risk involves ethical scrutiny of research responsibilities, which are highlighted by a research participant making a disclosure of previously unknown offending behaviours or intentions to offend. Central to any ethical scrutiny is the thorny issue of confidentiality – to protect someone from harm may mean breaching the confidentiality given to research participants.

An additional area of difficulty in qualitative research of 'sensitive' issues (Lee, 1993) is the response of the research participant to thinking about and talking about painful issues. Interview based research with sex offenders inevitably exposes painful issues, which may cause research participants to become distressed. How to manage this distress raises questions relating to ethical conduct in research. This paper begins by outlining the main ethical standpoints that relate to research practice. It then moves on to consider ethical issues involved in conducting research with sex offenders, specific consideration is given to confidentiality and managing distress in interviews. A significant element in how qualitative research is conducted is the epistemological standpoint from which the research is undertaken; the paper concludes with an

exploration of the relationship between epistemological standpoints and ethical conduct of research.

ETHICAL STANDPOINTS

Banks (2006) describes two distinct and different usages of the term 'ethics'. As a technical and philosophical discipline, ethics is more usually referred to as 'moral philosophy'. However, she also notes that 'ethics', as a term, also refers to the framework within which people define acts as 'good' or 'bad'. This paper is primarily concerned with this second usage of the term 'ethics'.

Kvale (1996) suggests that there are three major philosophical approaches to ethics that illuminate the exploration of moral issues in research. These are: a utilitarian ethics, Kantian ethics and virtue ethics. Banks (2006) considers the first two of these approaches to be 'principle based', derived from abstract sets of principles designed to guide and/or shape ethical behaviours. Virtue ethics is different in its focus, and fits within Banks' (2006) broad category of 'character and relationship-based' approaches.

In relation to research with sex offenders, utilitarian approaches are primarily involved in identifying the research question – the area to be explored – whilst Kantian and character and relationship-based approaches inform the conduct of the research process.

Principle-based theories of ethics usually construe ethical reasoning and decision-making as a rational process of applying principles and derived rules to particular cases and/or justifying action with reference to relevant rules and principles... (Banks, 2006, p. 28)

As, stated above, the main principle-based approaches to ethics are utilitarian and Kantian. Utilitarian ethics are concerned with the outcome(s) of specific actions, and are judged to be more or less ethical on this basis. Originating in the work of the philosophers Bentham and Mill, the utility principle identifies right action as being that which brings about the “greatest good over evil” or “the greatest happiness of the greatest number” (Banks, 2006, p. 36). As a general rule, utilitarian ethics are the ostensible motivators for research that is linked to public policy and penal practices. Thus, for example, research involving sex offenders is motivated by the desire to make ‘society’ a safer place for the majority of the population. Kantian ethics, however, focus primarily on the nature of the (research) act itself, rather than on the consequences of the act (Birch, Miller, Mauthner, & Jessop, 2002; Kvale, 1996). Actions are judged to be more or less ethical by how they live up to principles such as respect for the person, honesty and justice. As such Kantian principles are strongly linked to character and relationship based approaches to ethics and are more likely to be involved with the detail of the conduct of research.

Critics of 'principle-based' or 'universalist' models of ethics have questioned the relevance and suitability of approaches that operate from abstract universal principles (Edwards & Mauthner, 2002) and place too much stress on actions and the rational unbiased process of decision-making (Banks, 2006). These approaches, it is argued fail to take account of the person making the decisions and the context in which the decisions are made, and potentially, they are formulaic, focusing on actions and not on the person doing the actions (Kupperman, 1988; Pence, 2006). .

'Character-relationship' approaches to ethics encompass a number of different approaches and, as the name suggests, focus on the individual and how s/he conducts her/his research relationships. Two approaches will be considered here: virtue ethics and the ethic of care. Virtue-based ethics consider what makes up a 'virtuous' person and, ethics of care focus on the relational aspects of ethical conduct (Gilligan, 1982).

Slote (1995) suggests that virtues are innate qualities or characteristics and are not predetermined or shaped by external rules of goals. He notes that there were four cardinal virtues in Classical history – temperance, justice, courage and (practical) wisdom. Medieval Christian philosophers added faith, hope and charity or love to this list. Virtue of ethics skills in research highlight the contingent nature of ethical decision-making and lay emphasis on the 'moral values and ethical skills' (Edwards & Mauthner, 2002) of the researcher. Within

this model the resolution of ethical dilemmas is attempted not by referring to fixed principles, but through a reflexive and iterative process that requires the researcher to engage critically with problems encountered in research, including the research relationship itself.

Whilst virtue ethics concentrates attention on what it is to be a good person and how a good person should act, ethics of care is concerned with the reciprocal and dialogical nature of human relationships. Banks (2006) notes that most advocates of ethics of care do not locate themselves within the traditions of virtue ethics. In many ways ethics of care developed from a feminist critique of both principle-based ethics and virtue ethics, which, it was argued, ignored female 'virtues' particularly associated with caring and nurturance (Okin, 1994).

However, care is not generally conceived of as an innate individual quality, it is construed as being a *relational* virtue (Noddings, 2002; Tronto, 1993). In the present case, the ethical nature of the research relationship is something that is immediate, dynamic and dialogical. It is not embodied in abstract principles or qualities but in the conduct of the research relationship itself.

Character-relationship approaches focus attention on the fluid and contingent nature of the researcher-research participant relationship and on what is considered to be 'morally' good behaviour; the (epistemological) implications of the dialogical nature of ethical research conduct will be considered more fully later in the paper.

CONDUCTING RESEARCH WITH SEXUAL OFFENDERS

The prime motivation for researching sex offenders is utilitarian in that it seeks to understand and thereby remedy the harms caused by known sex offenders (Knight & Prentky, 1990). Generally, this body of research considers either issues related to reconviction rates or the effectiveness of therapeutic interventions (in reducing the risk/reconviction rates of offenders). In relation to recidivism research the focus is on tangible outcomes and it focuses on previously recorded data (Bennett, et al., 2004; Hanson & Bussiere, 1998; Hanson & Morton-Bourgon, 2005).

Although, systematic reviews of treatment effectiveness research have generally considered material that involves quantitative material, for example psychometric data (Brooks-Gordon, Bilby, & Wells, 2006; White, Bradley, Ferriter, & Hatzipetrou, 2002), some explorations of treatment effectiveness have also considered issues relating to qualitative research. Both Perkins, et al. (1998) and Bilby, et al. (2006), in their systematic reviews of treatment effectiveness, recognise the importance of 'ideographic' (Perkins, et al., 1998) and process focussed (Bilby, et al., 2006) research. Ideographic and process focussed research is, potentially, ethically more complex than research that is primarily quantitative in its methodological approaches. Qualitative methods are increasingly being used in research with sex offenders. Searches of the ISI Web of Knowledge database and the Applied Social Sciences Index and Abstracts (ASSIA) using the search terms 'qualitative & sex offenders' and 'interviews &

sex offenders' discovered 105 hits. When these were scrutinised 57 of them related to qualitative, interview based research with sex offenders. There has clearly been a growth in qualitative research in this area. From 1994-2003 there were 23 studies published, however in just the four years between 2004 and 2008 there were 34 such publications. Qualitative research involves (dialogical) relationships with convicted sex offenders and within such relationships issues occur that are, sometimes beyond the immediate control of the researcher. There are two particular issues in the conduct of qualitative research with sex offenders where ethical dilemmas are particularly complex: dealing with the disclosure of 'new' or intended offences; and managing distress in interviews.

Dealing with the revelation of previously undisclosed or intended offences

Research with male sex offenders seeks to enhance community safety by developing knowledge about men who threaten the safety of others. A key part of this knowledge is related to offending behaviours, and what is not public knowledge about such behaviours (for example the extent of offending behaviour or intentions to commit further offences) may be of greatest interest to those developing strategies to improve the safety of the general public. In order to obtain such information researchers generally guarantee research respondents some degree of confidentiality (Cowburn, 2004). Traditionally, criminological research has held as sacrosanct the confidential nature of the relationship between the researcher and the researched (see for example Baldwin, 2000; Cowburn, 2004; Smith & Wincup, 2000) and breaching such a trust has been

considered to be ethically unacceptable. However, the issue of undisclosed harmful behaviour is problematic. To know of unreported offences and to take no action may leave victim(s) at risk of further abuse. To know of an offender's intentions to harm someone and not to take action because of the confidential context in which the information emerged raises many issues. Potentially, the researcher can be seen as knowingly colluding with behaviours that are harmful to other people and thus failing to protect members of the public. The privileged nature of research confidentiality is, however, questioned by a number of researchers; some research undertaken in prisons (King, 2000) and some research undertaken with sex offenders (Cowburn, 2004) now recognises that there are constraints on the nature of confidentiality that a researcher can offer. Conducting research with prisoners, King (2000; p. 307) writes:

Protecting the vulnerable [research participant] is one thing but I have never taken the view that confidentiality can be absolute. I *always* tell staff and prisoners that I would not regard as confidential information given to me about planned self-harm or harm to others, for example, or a planned escape, because I always make it clear that I am a citizen and would have my own problems about living with that information.

This approach to confidentiality may have the effect of stifling or silencing information that would develop understanding of the subject being studied. Thus, whilst it is an ethical approach in that it accords the research participant (Kantian)

respect, by informing her/him of the boundaries of the research relationship, it conflicts ethically with Utilitarian aims (that seek to benefit the greatest number), which may be achieved through gaining fuller knowledge of offenders' behaviours, attitudes and intentions.

This issue of the inhibiting effect of limited confidentiality is not only an issue for researchers; it is also an issue for therapists working with sex offenders. Bilby, et al. (2006), citing the work of Scheela (2001) noted the frustrations of therapists in relation to 'mandated' reporting (of previously unknown offences). Therapists considered such activity adversely affected therapy and was seen as the 'antithesis of therapeutic relationship'. The requirement to report unreported offending effectively prevented sex offenders from talking fully about their deviant behaviour. This conflict is, inevitably, more marked for therapists who also undertake research with sex offenders in this area.

One way out of this dilemma may be to reconsider the research methods used in research that seeks to know more about unreported illegal and harmful behaviours. Whilst qualitative methods invariably involve interviews and thus personal contact with an identifiable person, large-scale surveys have the advantage of being anonymous. Abel, et al.'s (1987) self-report study of 561 'non-incarcerated paraphiliacs' discovered much about sex offender behaviour that was previously unknown (Fisher, 1994). The success of the study, in part, depended on the elaborate procedures that were in place to protect both

confidentiality and anonymity. Additionally respondents were encouraged to reveal only general features of unreported offending; research documentation was elaborately coded and elaborate steps were taken to prevent criminal justice agencies accessing the data.

This is not, however, to say that qualitative research with sex offenders is of limited value and should be avoided. It has the potential to discover more nuanced detail about sex offenders' offending behaviour – how they make sense of it and how it fits into their lives. With detailed consideration of ethical issues there are ways of gaining offending behaviour related information whilst not knowingly concealing information that indicates certain people are in danger/at risk. For example, King (2000), and, Abel, et al. (1987) suggest that researchers can explicitly discourage research participants, when talking about unreported offences or intentions to offend, from identifying specific details that would identify potential victims. Similarly researchers can remind research participants of the boundaries of confidentiality each time they interview them (Cowburn, 2004). Whilst these suggestions do not fully overcome the ethical dilemma outlined above they do allow the researcher to show respect for the research participant and also potentially to develop new areas of knowledge.

Managing distress in interviews

The 'private' and often 'stressful' issues explored in interviews with sex offenders can, on occasions, cause distress. Discussion of early childhood experiences

and offending behaviours are potentially fraught with material that will cause distress. How the interviewer responds to this distress may, in some ways, be predicated on her/his epistemological standpoint. Potentially, the researcher may be faced with a conflict between methodological requirements and ethical impulses.

In modernist social science the quest for objectivity is of paramount importance (Franklin 1997). In qualitative research the tenets of objectivity define the parameters and nature of the research relationship. In interviews, the researcher's engagement with the research participant is limited to facilitating the emergence of 'data'. With care, precision, and avoidance of bias, it is assumed that the researcher is able to extract an objective account of what is studied (Harding, 1991). The researcher extracts information from the research participant and is unaffected by and uninvolved in the process (Franklin 1997). Additionally, the research relationship is construed as *monological* (Yassour-Borochowitz, 2004). Shotter (1993, p. 61-62) comments that traditional social science research is about "prediction, control and mastery" of the research subject and that the "traditional scientific view of things" objectifies the (human) beings studied. Within this context the ethical duty of the researcher is to treat the research participant with Kantian respect (British Society of Criminology, 2006, British Psychological Society, 2006).

However, the epistemological assumptions and methodological practises of this approach to social science research have been subject to sustained critique, particularly from feminist (Code, 2006; Harding, 1991, 1998, 2006; Lennon & Whitford, 1994) and postmodern (Burr, 1995; Gergen, 1985, 2000; Lather, 1992; Shotter, 1993, 1995) philosophers and social scientists. A key part of the critique has focused on the nature of objectivity and consequences this has for the personal conduct of qualitative research and in particular recognition of the dialogical processes in data collection (Yassour-Borochowitz, 2004).

In researching issues that may cause research participants painful and strong emotions, the issue of how to react to distress is both an ethical and an epistemological concern. To follow the behavioural prescriptions of social science driven by the primacy of objectivity and principle-based ethics may be to act in a respectful if uninvolved manner during the research interview. Character-relationship ethics offer alternative insights into what might be ethical conduct in these circumstances. The following case study explores these issues in more depth.

Michael¹ was thirty-one years old at the time of the research. He was serving a seven-year sentence for the rape of his ex-partner. He was twenty-nine at the time of the offence. He has no previous convictions for any type of offence. His offence was brutal and very violent.

¹ This is a pseudonym. All details that could identify the man have been changed to protect his anonymity.

His childhood was unremittingly neglectful and abusive. He was taken into Care of the local authority when he was three years of age and spent the remainder of his childhood there. He lived in a variety of settings – foster parents and local authority residential units – and attended a number of different schools. He had occasional and generally upsetting contact with his mother. He had no contact with his father.

The interview sessions with Michael were gruelling in many ways (including his account of his offences), but one persistent feature was his emotional pain, which appeared to have strong links with his negative experiences of childhood. He occasionally cried during the interview sessions and was often unable to speak as he remembered painful incidents from his childhood. He appeared to be a thoughtful man who was trying to make sense of his life and what he had done to his ex-partner.

*As the research relationship developed, I became more familiar with him, and wanted to suggest that he might benefit from reading Alice Miller's *Drama of being a Child* (Second edition) (Miller, 1995). I thought that her insights into the relationship between a troubled childhood and adult problems might be helpful to him. However, I said nothing to him about the book. My only response to his sustained but muted pain was to note it explicitly and to ask if he wanted any help.*

The ethical perspectives that influenced my decision were linked to Kantian respect for the individual and virtue ethics. In the information given to all

research participants I explicitly stated that the interviews were **not** in any way *therapeutic*. Kvale (1996) acknowledges that whilst therapy and research may have many things in common they have very clearly defined and different objectives: the main goal in therapy is change in the patient; in research it is the acquisition of knowledge. The objective of the interview was to obtain information about research participant's lives. It was not to make them feel better or help them to achieve insight into their situation(s). Thus, if I gave Michael the book, I would be behaving dishonestly. Honesty – or the avoidance of deceiving research participants - is a key 'virtue' in the conduct of research (see for example (Bulmer, 2001). To engage with Michael in a way that could be construed as 'therapy' seemed to be inappropriate if not disingenuous.

Although, my decision not to inform Michael about the book was ethically informed, it was also strongly influenced by both methodological and epistemological considerations. At the time of the study, my epistemological position was located in the natural science paradigm. I saw my self as the detached and objective researcher and thus I did not want to 'contaminate' the interview data by involving myself in issues that I perceived to be tangential to the objective of the interviews. Adopting a natural science standpoint on research effectively prevented me from engaging with the ethics of care. To incorporate ethics of care I would have been required to pay *particular* attention to the dialogical nature of the research *relationship* (Yassour-Borochowitz, 2004). In doing so I may have recognised that: (a) the products of the research were co-

constructed and not independently available, thus they would never be open to 'contamination' and (b) my responsibilities in an ethic of care may have enabled me to 'care' for Michael not only by recognising his distress but by offering him a vehicle through which he may reinterpret his history and thus possibly alleviate his distress. Coyle and Wright (1996) suggest that a dual focus involving research and therapeutic perspectives is essential for researchers exploring sensitive issues. Additionally, they note:

It verges on the unethical for a researcher to address sensitive issues with respondents, restimulate painful experiences, record them and simply depart from the interview situation (p. 433).

Although, they suggest that it is unreasonable to expect all qualitative interviewers to undertake prolonged therapeutic interventions with people that they have interviewed, they do note that interviewers should be able to suggest resources that the interviewee might be able to use to work through unresolved issues. However, the nature of the research relationship – whether it is monological or dialogical will inevitably affect the extent to which such issues are explored.

SUMMARY

This paper considered how different approaches to ethical thinking can clarify issues and subsequent conduct in relation to two difficult areas in qualitative

research in sensitive areas: undisclosed offending or the intention to offend and research participants who become distressed during interviews. Principle-based approaches highlight the tension between respecting the individual and developing research that may benefit the wider community. Offending behaviour that has not been reported or expressed intentions to commit further offences are matters that potentially provide a greater understanding of men who commit sex offences. However, uncritically allowing research participants to speak about these issues may elicit data that challenges previous understandings of how and why men commit sexual offences, but it may also leave the researcher in possession of information that could protect known people from harm. The nature and limits of confidentiality in this area of research need to be clearly identified and the research participant regularly reminded of them.

Researching sensitive issues carries the likelihood that research participants may become distressed as they speak about their personal histories including the harmful acts that they have experienced or perpetrated. The issue of how the researcher responds to this distress is both an ethical, an epistemological and a methodological matter. The key issue concerns the nature of the scientific endeavour. Researchers who favour a methodology that gives a central position to objectivity and the researcher being little involved with the research participant, except to facilitate the extraction of information, may choose only minimal engagement with a distressed research participant. This will largely consist of ensuring that the participant is able to access support outside of the research

interview. Researchers who view the interview process as a dialogical event may consider that they have ethical responsibilities to care for the research participant in a more immediate way. Whilst this cannot be providing long-term therapy it may involve using therapeutic skills in engaging with the other person's immediate distress.

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