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## **Confidentiality and public protection: ethical dilemmas in qualitative research with adult male sex offenders**

Malcolm Cowburn

*This paper considers the ethical tensions present when engaging in in-depth interviews with convicted sex offenders. Many of the issues described below are similar to those found in other sensitive areas of research. However, confidentiality and public protection are matters that require detailed consideration when the desire to know more about men who have committed serious and harmful offences is set against the possibility of a researcher not disclosing previously unknown sensitive information that relates to the risk of someone being harmed.*

### **Introduction**

The aim of this paper is to explore the ethical dilemmas faced by researchers undertaking qualitative work with sex offenders: I do this by reviewing current practice and then develop proposals for research practice in this area. The paper addresses the tensions in seeking to obtain as uninhibited account as possible of criminal behaviours whilst not appearing to be colluding with the ongoing harm done to known victims by taking no action to stop that harm. Essentially this relates to managing the boundary between confidentiality and public protection. Initially, I outline the study on which the discussion is based. I then review the literature relating to researching 'sensitive' issues. The bulk of the literature review is, however, concerned with reviewing approaches to confidentiality and considering them within the specific context of researching

sexually abusive/violent men. From this review I move on to suggest guidelines for research practice in this area.

### **Outline of Study**

The principal aim of the study was to explore the epistemological and ethical implications of undertaking life hi/story<sup>1</sup> research with men convicted of sexual offences.

Nine men imprisoned for sex offences agreed to tell me their life hi/stories. The men were serving sentences of between four and ten years. Six of the men had offended against children and three had offended against adults. Only one of the men had any previous convictions for sexual offences. All of the men were white and aged between 25 and 61 years old at the time of the interviews. All of the interviews took place in prison. The interviews were semi-structured and lasted between four and seven hours (sometimes over more than one day). The men told their life stories from their earliest memories to their current situation, using life transitions (for example, entry to school(s), and work) as prompts for memories. Inevitably, the in depth and sustained nature of the interviews meant that the men spoke of a range of sensitive issues.

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<sup>1</sup> Throughout this paper, I use this graphological effect to reflect both of the perspectives embodied in the words 'story' and 'history': see chapter two of Plummer, K. (2001). Documents of Life 2. London, Sage.

## **Researching sensitive issues**

Researching men who are known to have been sexually coercive raises many issues that are common to other 'sensitive topics' (Lee 1993), whilst having additional problematic areas. Lee (1993; p.4) in considering what are 'sensitive topics' notes:

... insofar as there is a common thread in the literature it lies in the implicit assumption that some kinds of topics potentially involve a level of threat or risk to those studied which renders problematic the collection, holding and/or dissemination of research data (Lee and Renzetti 1990). A simple definition of sensitive research would therefore be 'research which potentially poses a substantial threat to those who are or have been involved in it'. Another way to put this is to say that sensitive topics present problems because research into them involves potential costs to those involved in the research, including, on occasion, the researcher.

Lee (1993; pp 4-11) identifies three broad areas in which research may be threatening. The first area is where research may pose an 'intrusive threat' (p. 4) because of the private, stressful or sacred nature of the subject matter being investigated. The second area of threat relates to the study of crime and also areas of social control and involves the possibility or potential to reveal information that may stigmatise or incriminate the person or persons being researched. The final area of threat that may be in a research project relates to what Lee describes as 'political' matters; he uses a wide definition of political and includes situations that relate to vested interests of both people and organisations.

By interviewing men convicted of offences of sexual violence who are currently in prison, in a way that is different to the dominant mode of interviewing, this study

may be construed, by some, as a 'political' threat. A life hi/story approach to interviewing, contrasts sharply with the dominant cognitive behavioural methods of interviewing that are used in the prisons of England and Wales (Beech, Fisher et al. 1999). Similarly, my intention to look at the men in a context wider than their offending behaviour may also have been viewed with some scepticism by prison and probation staff operating within the strict parameters of the cognitive behavioural model. However, the Director of the Sex Offender Treatment Programme (SOTP) of England and Wales<sup>2</sup> was fully aware of my research aims, objectives and methodology and this did not appear to delay the approval of my proposal and research access. So, as far as the 'political' area is concerned, it would appear that this study poses little or no political threat in this respect.

However, the nature of the life hi/story interview – its focus, intensity and length - inevitably produces accounts of private and painful events, the retelling of which can in itself be extremely stressful both to the teller and the listener of the hi/story. This is intrusive and may, in some cases, pose a threat to an individual's emotional and psychological well-being. The life hi/story interview (Plummer 1983; Connell 1995; Plummer 1995; Messerschmidt 2000); (McAdams

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<sup>2</sup> The Sex Offender Treatment Programme (SOTP) is a national prison based programme that was instituted in 1992. It is a cognitive-behavioural programme and runs in over twenty prisons in England and Wales. See Beckett, R., R. Beech, et al. (1994). Community-based treatment for sex offenders: an evaluation of seven treatment programmes. London, Home Office, Beckett, R. (1998). Community Treatment in the United Kingdom. Sourcebook of Treatment Programs for Sexual Offenders. W. Marshall, Y. Fernandez, S. Hudson and T. Ward. New York & London, Plenum Press, Beech, A., D. Fisher, et al. (1999). Step 3: An Evaluation of the Prison Sex Offender Treatment Programme. London, Home Office.

1985) is an in-depth and sustained exploration of (some) memories of a person's life. Perhaps, because of the semi-structured nature of the interview and its duration, there develops a dynamic between the interviewer and interviewee that reduces defensiveness on the part of the interviewee and thus potentially facilitates unguarded disclosure. This can be very distressing to the interviewee and may have serious implications for both parties in the interview. This leads to consideration of Lee's second area of threat, which can be summarised as 'the problems of confidentiality'.

### **The problems of confidentiality**

This was of central concern to my study. In his discussion of this 'threat', Lee (1993) concentrates on the fears of those being researched and the efforts of the researchers to reassure them. The researched fear that the researcher may disclose sensitive information to 'authorities' that may then impose sanctions. Writing about the work of sociologists from the University of Chicago in the 1920s and the 1930s, many of whom used life hi/story approaches to study deviance, Lee (1993; p. 11) notes that they were well aware of 'the importance of maintaining confidentiality'. His primary concern seems to be with the threat that the research poses to the person being researched and how this may inhibit or enhance the collection of information and the development of knowledge. Processes that inhibit the collection of information (for example, breaches or identified possible breaches of confidentiality) and the development of knowledge are viewed negatively and are to be avoided. Lee (1993, p. 167) notes:

In Britain ... the House of Lords has ruled that a promise of confidentiality does not itself make information privileged. Private promises of confidentiality need to be weighed against the public interest. Journalists in Britain who have refused to disclose their sources have on occasion been fined heavily (Tan 1988)

However, in the middle of an extended discussion of the legal implications of maintaining confidentiality Lee (1993; pp 164-170), notes that Sagarin and Moneymaker (1979) identified situations when researchers become aware of information about a serious crime where a person or persons are known to be at serious risk of violence. He reports, without comment, that Sagarin and Moneymaker consider that a claim to confidentiality in cases such as this would be 'tantamount ...to aiding and abetting the crime, something that would be morally, legally and professionally dubious' (Lee 1993; p. 168). In the same paragraph, Lee (1993) also refers to the deliberations of Van Maanen (1983), who apparently takes a relativistic moral stance. Decisions to break confidentiality (even informal arrangements) take into account the nature of the relationship between the researcher and the person(s) being researched and the nature of the actual or potential threat:

Thus, although Van Maanen would not testify about his observation of the beating of a suspect in police custody, he was less sure that he could, morally, have withheld co-operation had the man been killed. (Lee 1993; p. 168)

On this issue, Kvale (1996); p. 115) briefly notes that:

Protecting confidentiality can involve serious legal problems, such as in cases when a researcher – through a promise of confidentiality and the trust of the relationship – has obtained knowledge of mistreatment, malpractice, child abuse, the use of drugs, or other criminal behaviour by the interviewee or others.

I suggest that the problems such disclosures cause are more than just legal matters. Both Lee (1993) and Kvale (1996) note that in the United States, social science researchers may be able to obtain a certificate of confidentiality protecting both their data and the anonymity of their informants. This, it is implied, enables the researcher to obtain data that may, in less protected circumstances, have been impossible to acquire. What appears to have been given less consideration is the moral position of the researcher who knows that violence has and is taking place against a known person or persons but does nothing about it, in order not to destroy a relationship that is providing rich data. Van Maanen (1983) clearly takes the position that it is the researcher who should make the moral decision to report or not dangerous or potentially dangerous behaviour that they are privy to. It is not, for example, reported how many beatings of a suspect the researcher would observe before they would take action; Lee (1993) leads us to believe that only a death would prompt Van Maanen to breach a confidentiality commitment. What is at issue in these discussions is the tension between the desire for knowledge and the desire to act ethically to prevent another person or persons from harm.

### **Confidentiality and the Law**

Central to considering issues of confidentiality and the law is the complex area of Human Rights legislation, however things are not as unequivocally clear as may be initially assumed; there are competing human rights. The victim or potential victim has a right not to be subjected to harmful treatment: Article 3 of the



European Convention on Human Rights highlights the right not to be subjected to inhuman or degrading treatment or punishment (Williams 2001); so it may be that a researcher not disclosing a risk posed to a specifically identified individual could be infringing that person's rights by maintaining such information as confidential. However, the individual offender also has the right 'to respect for his (sic) private and family life, his home and his correspondence' (Article 8 (1) UK Human Rights Act 1998 cited in (Williams 2001), and this right can only be overridden for (amongst other things) the 'prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others' (Williams 2001). Only in cases where there is clear concern that a crime may be committed or a person or persons harmed can the core right in Article 8 (1) be overridden. Article 8 (2) states:

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or the protection of rights and freedoms of others. (cited in (Williams 2001; p. 840)

Whilst it may be a moot point whether an academic researcher is a representative of a public authority or not; the question of which responsibility (to research respondent or to known or unknown members of the public at risk) carries the greater weight still remains.

Similar dilemmas have been faced by psychotherapists: in California the 1970s the Tarasoff case provides an additional, if adjacent, context where the tension between confidentiality and public protection came to the attention of the legal system. Two therapists were found by a court to be negligent for not warning an intended victim of a threat to her by their mentally disordered patient and she was subsequently killed. The two therapists were deemed to have an obligation to protect an intended victim of a patient who presented a serious danger of violence (Kok, Yap et al. 2002). Although intended to permit testimony in civil commitment proceedings, this exception has been used to "criminalize" the Tarasoff duty in California. Although most other jurisdictions in the United States may not word their privilege exceptions for civil commitment in the same way as California, most states have some type of privilege exception for civil commitment that could allow for such an interpretation. Rather than being unique to California, similar reasoning, it is suggested could lead to the further "criminalization" of Tarasoff in the United States and thereby compel therapists across that country to testify against their patients in criminal proceedings (Weinstock and Leong 2001).

Although, legal rulings do not appear to have constrained research with sex offenders, the ethical dilemmas which legislation highlights require serious consideration every time research in this area is considered. I now review some approaches to this problem.

## **Confidentiality and research with sex offenders**

In much of the sociological literature, cited above, the weighting is very much on the side of not breaking confidentiality if this would produce more information that would add to knowledge about a particular subject. This is a particularly serious issue when we are considering researching male sexual violence. The Abel, Becker et al (1987); pp 5-6) self-report study of 561 'non-incarcerated paraphiliacs' asked men convicted of sexual offences to self-report sexual crimes/behaviours that they had committed but that had not been reported or prosecuted. However, they encouraged respondents only to reveal general features of undisclosed offending; they gave the documentation from each respondent a distinct code and the key linking each respondent's name to specific documentation was held outside of the United States '...to prevent attempts by the criminal justice system to subpoena the data.' (p. 6), and they obtained a Federal Certificate of confidentiality. This study (Abel, Becker et al. 1987) found that 23.3% of the subjects offended against both family and non-family victims. 20% of the subjects offended against both sexes and 26% used both touching and non-touching behaviours when offending. They also found much higher rates of sex offending. Fisher (1994); p. 6) comments:

This study represented a watershed in the knowledge base about sex offenders, because of the huge amount of previously unknown information revealed, and served to dispel some previously held ideas and stereotypes.

One of the previously held ideas that was challenged was the belief that sex offenders always had a preferred 'type' of victim, identified generally by age or gender. It is questionable whether this type of information would have been obtained without the elaborate guarantees of confidentiality given to the participants in the study.

However, the Abel, Becker et al study was a relatively large and impersonal survey. The issue of confidentiality and previously undisclosed or imminent offending becomes much more problematic when the researcher is contemplating interviewing individual sex offender (s). Here, potentially the issue is stark: the specific offender is known and, it is most likely, the specific victim or victims may be identified. To keep this information confidential is to leave concealed the extent and nature of a man's sexual offending behaviour, and as such, it could be said that this colludes with him and his harmful behaviours (see the comments of Sagarin and Moneymaker 1979 above re aiding and abetting). In the case of a disclosure of current and continued offending, maintaining total confidentiality leaves someone in an ongoing seriously harmful situation.

However, by putting boundaries on confidentiality, it may be that the researcher will receive a significantly moderated version of a man's sexually coercive behaviour. Kvale (1996; p. 109) cites the following statement from the American Psychological Association's (APA) ethical principles:

Psychologists respect the dignity and worth of the individual and strive for the preservation and protection of fundamental human rights. They are committed to increasing knowledge of human behavior and of people's understanding of themselves and others and to the utilization of such

knowledge for the promotion of human welfare. (American Psychological Association 1981)

Clearly, in the present situation, there is a problem for researchers: to increase knowledge of sex offenders, particularly in relation to undetected coercive behaviour, it would appear to be necessary to compromise the safety (a fundamental human right) of others. I now briefly review some qualitative approaches taken with regard to confidentiality when interviewing, in depth, men (and adolescents) who have behaved in a sexually coercive manner.

Tony Parker (1969) in *The Twisting Lane* undertook life hi/story interviews with eight male sex offenders. However, with regard to confidentiality and risk, he says very little. In his 'Introductory Note' (on an unnumbered page) he comments 'Real names and place names and a few minor details have been altered to protect anonymity.' He does not consider issues related to the disclosure of unreported offences.

In his doctoral thesis *Sexual Experiences of Adults with Children: an analysis of personal accounts*, Chin-Keung (1986) describes interviews with twenty-seven men 'who have had, or who desire to have, sexual contact with children'. He obtained his sample from four different sources: psychiatric clinics (12 men), a paedophile organisation (3 men); an advert in *Forum* magazine (11 men were interviewed and he corresponded with another 4); and personal contact (1 man). The title of his study and the sources of his information clearly indicate that he

was working with men who were mostly unknown to the Criminal Justice System.

Concerning the confidential nature of his study, he notes that he told his

informants that:

... I would undertake the responsibility to ensure the confidential nature of his participation in my study – that I had no relationship whatsoever with the court, the police, or other government organisations, that I was an independent academic researcher connected to a university, that he did not need to mention names or identifying characteristics while discussing his experiences, that all material that I might obtain from him would be kept strictly confidential and anonymous, and nobody else except myself would have access to the material, that I would not feedback information to the psychiatrists or other staff if he was a ‘clinic’ informant, that when I wrote the report of my research I would disguise any material I might use in such a way the informant’s identity would not be known. (Chin-Keung 1986); p. 214)

Apart from the issue of harmful and illegal sexual activity, this position is similar to the position that I adopted when interviewing the men in this study. By including in his statement that the men did not ‘need to mention names or identifying characteristics’ Chin-Keung, perhaps, avoided the ethical dilemma of hearing that an identifiable child was being sexually coerced/hurt/abused and being constrained by his commitment to total confidentiality. Chin-Keung obtained rich data (it is regrettable, that his study does not appear to have been published anywhere) and he was able to discuss in depth with the men their sexual preferences and their understanding of such. It is doubtful that he would have (a) obtained access and (b) obtained such full accounts had he not guaranteed total confidentiality.

Scully (1990; p. 23) in her study of rapists in a maximum-security prison in the United States separated past behaviours and future intentions:

It is necessary ... to make a distinction between the researcher's obligation to an informant when information concerns past activities and when the information relates to a future act that poses danger to another person. In the latter case, protection of the endangered person takes precedence over the rights of the informant.

Fuller (1993) studied thirteen men convicted of sexual offences against children.

Her sample was obtained from a Probation Service in England and Wales.

Concerning confidentiality she notes:

It is standard practice to guarantee all interviewees, in whatever research, confidentiality. Theoretically, a man in a sample of undetected 'abusers' might make it clear that he is currently engaging in sexual activities with a child. My own feeling was that this would place me in a very difficult ethical position. As a researcher, confidentiality must be guaranteed; as an individual who feels the interests of the child must be paramount, confidentiality must be broken. Scully argues that 'protection of the endangered person takes precedence over the rights of the informant' (Scully 1990); p. 23). Others have argued that such research will aid understanding, and therefore future prevention, of sexual violence. I am more persuaded by the former argument, but happily the position never arose for me. However, in those interviews conducted while evaluating the group, I signed a confidentiality agreement ... The wording of this was agreed with the group staff and includes the warning that I would be bound to report such instances. (Fuller 1993); pp 52-53)

Her position of 'limited confidentiality' is similar to the position that I adopted in my study and for very similar reasons (see below).

Colton and Vanstone(1996) reported their interviews with seven men convicted of sexual offences against children with whom they had a professional relationship (for example teacher, care worker). All of these men were imprisoned at the time of the interviews. The description of their methodology is sparse, but they do note the following:

We were faced also with the dilemma of how we could encourage the men to be as open as possible, without heightening their vulnerability. It has been essential, therefore, for us to work hard at fulfilling our promise of confidentiality and, to this end, factual detail that might be linked to both offender and victim has been either removed or altered. Accordingly, there has been a fictionalising of aspects of these stories, but we have been careful to ensure that their essential meanings and messages have been retained. Each of the men gave his written permission for us to publish the outcomes of the interviews, subject to the guarantee of confidentiality (Colton and Vanstone 1996); p.5).

Here confidentiality appears to be conflated with anonymity. There is no discussion of the ethical dilemmas surrounding their position. They seem to have allowed 'total confidentiality'. There is no mention throughout the text of any ethical dilemmas relating to additional disclosures, and no disclosures of unreported offending feature in the book.

Hearn (1998) explored the experiences and perceptions of sixty men who had been violent to known women. Many of these men had been sexually violent. The sample was taken from both the community and from prisons. In relation to confidentiality, Hearn (1998; p. 51) highlights some of the ethical issues and his responses to them:

Attention has also had to be given to confidentiality. Moreover, confidentiality is itself a social and political construction. Different versions operate in different agencies. Particular difficulties surround the possibility of men talking of (a) either their intention to be violent to women, or their intention to commit other crimes; (b) their violence or other crime in the past, both unsolved crime, ongoing crime investigations and crime which is not yet known to the police. Accordingly, while these were confidential research interviews, we informed the men that we operated within the limits of the law.



Whilst the above statement provides a clear exposition of the ethical dilemmas in this area, what is not explicit is whether Hearn and his colleagues construed 'operat[ing] within the law' as a mandate to report undisclosed criminal behaviour to the police. Given the explicit pro-feminist orientation of the book it is likely that this would be the case.

In an earlier publication Hearn and colleagues (Hearn, Raws et al. 1993) identify three approaches to confidentiality – legal, moral and research perspectives.

They note:

Legal perspectives on confidentiality suggest that only solicitors are able to enforce complete confidentiality with interviewees/clients. Others can [be] subpoenaed and can be charged with obstructing the police, or aiding and abetting.

Additionally they highlight that decisions concerning how to manage confidentiality are not made solely on the basis of legal criteria, 'moral' perspectives are also important:

Moral perspectives include concerns about past 'unsolved' crimes, dangers to others, intention to commit crime, threat to others, etc. It is possible that moral dilemmas may arise that may mean absolute confidentiality cannot be maintained (Hearn, Raws et al 1993; p. 50)

Finally, they note that 'Research perspectives include the need to maximise confidentiality for the purposes of the research' (Hearn, Raws et al 1993; p50).

In light of these conflicting demands, Hearn, Raws et al (1993; p. 52) emphasise

the need for considerations of confidentiality to be built into research projects from the outset, and they assert the importance of consultation, particularly with the director of the research project, before any action is taken to break confidentiality

Messerschmidt (2000) studied three groups of adolescent boys: sexual offenders, violent offenders, and non-violent young men. He used a life hi/story approach and the total number of young men interviewed was nine. Concerning his conception of confidentiality and how it operated he writes:

Prior to commencing an interview in a secluded room, I explained that risk of identification was negligible inasmuch as all interview information would be identified by a number only, stored in a secure facility, and destroyed by me at the conclusion of the study. Moreover, I pointed out that interview conversations would be treated with strict confidence and never made available to another person or agency and that certain identifying details would be changed. Further, I obtained informed consent prior to the interview. I also indicated that the final results of the research would be published in a manner that fully protected his anonymity, his family members, and all others mentioned during the interview (Messerschmidt 2000); p. 21).

Messerschmidt (2000) gives no information about where he obtained his sample of sex offenders. He does imply that he knew the details of their criminal records, so one may surmise that they were contacted via an official source. He does not consider the possibility of receiving information about unreported offending and presumably, given his reassurances about confidentiality, he would never report any matter.

In my own study, I outlined my position, with regard to confidentiality in a letter to potential respondents:

The content of the interviews is confidential unless you: (a) tell me in detail about an offence that you have committed but have not been prosecuted for; and (b) if you indicate that you are a risk to yourself. In both cases I would report these matters to the Prison Service. Otherwise everything you tell me will be confidential. When I write-up the findings of my research I will do everything I can to ensure that you cannot be identified by anyone reading my report, but I cannot guarantee that you would not be recognised by someone reading my report. (Cowburn 2002)

All of the men accepted the caveats on confidentiality relating to unreported offending and to reporting their distress.

In this group of studies, writers have more or less explicitly considered issues of confidentiality and risk to known or unknown persons. Although, with the exception of the present study, none of the authors appear to have considered the problems of confidentiality where the person being interviewed becomes distressed. However, where the exposition of the ethical dilemma is fullest, writers tend to offer limited confidentiality. There does not however, appear to be a significant difference in the nature of the material reported where total confidentiality is promised or partial confidentiality given. This may be due to either no difficult situations occurring or the authors choosing not to report such incidents. However, in the next section I describe issues raised when a man began to disclose sensitive information.

## **Managing potential disclosure of unreported offences: proposals for research practice**

In this section, I present a case study from my recent research that illustrates some of the dilemmas discussed above. I then go on to discuss the issues that arises from the study and finally I make some proposals for research practice.

### Case Study

Dennis<sup>3</sup>. is a sixty-five year old man who is serving a seven-year prison sentence for rape of his granddaughter. He denies the charge of rape and somewhat ambivalently (as the extract below illustrates) admits indecently assaulting her. On arrival in his present prison he met another prisoner, Bill, who lived in the area where Dennis had (allegedly) committed his offences. Bill does not know Denis personally, but the two men discovered that they had a number of acquaintances in common. In conversation they cautiously explored their mutual circle of acquaintances. Dennis reported to me, that he had in this conversation, deliberately avoided mentioning his own name, this left Bill puzzled as to Dennis' identity. The account below is taken from the transcript of the interview with Dennis:

Dennis: *"Fucking 'ell", he [Bill] says. He come back "Your name's [surname]!" I says "Yeah".*  
*"You're in 'ere for what Andy did!"*  
*I says, "I don't know, you tell me."*  
*He says "I've told you all I'm telling you at the moment"*  
*And then a few days later I says "What did you mean by, you told me all you know for the moment?"*  
*He [Bill] says, "Well him and his son, used to go, used to, meet up at Jan's house and he says, they was all playing with the girls."*

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<sup>3</sup> This is a pseudonym.

MC: When you say him and his son, who do you mean, this bloke in here?

Dennis: *No, this Andy, he's got a son, the one that was about 18, that's his son and the other bloke was this son's mate, I don't know what his name is. He says "Andy is[pause] was having it with the girls."*

MC: Is Andy in here?

Dennis: *No. And they still see Andy.*

MC: Let me just stop a minute.

At this point, the interview with Dennis had lasted almost four hours (over two days). The circuitous route of his story occasionally touched on his offences, which he minimised. He appears to be about to identify someone else as the 'real' perpetrator of the offences against his granddaughter. I stopped the interview and switched off the tape recorder and reminded him of the confidentiality agreement in relation to undisclosed offences. My notes on the transcript of this interview clearly reveal the issues involved:

This is very difficult. He is telling a story that implicates someone else for the offences that he is alleged to have committed. Furthermore, the person he identifies is still at large and possibly sexually abusing other children. He has given some detail, but at this stage not full detail. I stopped the interview to warn him that if he continued he was in danger of identifying Andy and I would not be able to hold that information as confidential but I would have to report it to the social services. As it is, I have a forename and a statement, which Dennis could easily refute.

### Reflections

A number of issues emerge from this vignette; relating to the extent of the confidentiality remit, how this is managed during a (long) interview and the nature of gendered research practice. I will address each in turn and conclude this section by making tentative proposals for practice.

As mentioned above the declaration of confidentiality in my research (and in the other studies cited) relates to the undisclosed behaviours and future intentions of the research participant. No mention was made of disclosure relating to the unreported (harmful/criminal) behaviour of third parties. I paused the interview to remind Dennis of the confidentiality agreement and also to extend, explicitly, the agreement to disclosures relating to specifically identified third parties. In future research in this area I would explicitly include the undisclosed criminal/harmful behaviours of identified third parties as information that I would not hold as confidential.

Apart from the fact that the confidentiality statement of this research did not overtly cover the nature of Dennis's potential disclosure, there is also the issue of whether or not research participants should be regularly reminded of the boundaries of confidentiality operating during the interview. The nature of life history research or any in depth qualitative research means that interviews are likely to be long and over many separate sessions. It may be that Dennis had forgotten what I had said at the beginning of the interview – as mentioned above the potential disclosure occurred after four hours of discussion. This raises the question of whether, in undertaking this type of research, participants should be reminded of the limited nature of confidentiality at the start of each session. Although, it may inhibit the initial phases of each session, participants would be clear about the boundaries operating within the interview. However, although

reminding participants at the beginning of each day may reduce the possibilities of unwitting disclosure, there is still an issue of how the researcher should behave when a research participant begins to disclose material that will require confidentiality to be broken. In the case study I had a number of reasons for halting the flow of the conversation and reminding Dennis of the implications of continuing with his disclosure; some of these issues have been discussed, but there remains a question as to whether the researcher should intervene and remind the participant of their situation if they are about to make a disclosure of unreported harmful behaviours. I reminded Dennis of the consequences for him of more fully identifying 'Andy'. The reminder may have sounded something like an official police caution, but it gave Dennis the opportunity to reflect on where his story was going and to make decisions about how to continue. It may be that even with appropriately worded, widely inclusive, statements of the circumstances in which confidentiality will be broken, there is an ethical mandate to remind the research respondent of her/his situation immediately prior to their making a disclosure that will require the researcher to take further action. However, whether this action is construed as ethical, unethical or collusive may depend upon the standpoint and, perhaps, the gender of the researcher.

In seminar discussions related to this paper, I have been asked whether the fact that I am male affected my decision to warn Dennis of the potential implications should he identify specific victims and perpetrators in his narrative. The suggestion was that perhaps, because of my gender, I was willing to 'protect'

Dennis from the consequences of unguarded disclosures and thus leave young people in the community at risk of ongoing abuse. This discussion raised very clearly the difficult relationship between epistemological standpoint and ethical conduct.

I undertook this study from an explicit pro-feminist standpoint. Such a standpoint is the male complement of feminist standpoint. Key features of it are: familiarity with feminist critiques of patriarchy and male power, reflexivity and a desire to change dominant forms of male behaviour (Pease 1997, Hearn 1998a, Hearn 1998b). Thus, whilst I recognise that the dialogical dynamics of two men talking together will be different to a woman and a man talking and that there is always the possibility that as a man I may take for granted (and possibly collude with) certain male attitudes, the adoption of an explicit standpoint in a research project necessitates me to reflect on my actions in the light of my standpoint. It is from this standpoint that the present discussion of confidentiality and public protection has originated.

In this instance, I believe my actions were ethical in that I allowed Dennis an opportunity to reflect on his situation. The story that he was developing may have been a way for him to deny responsibility for his offences, but, additionally, he may have been on the point of identifying a man who was sexually abusing children and whose behaviour was not known to the police. However, unless Dennis revealed this information in full awareness of the consequences of doing



so he could easily refute his statements, suggest that the researcher had misled him and refuse to co-operate with any subsequent investigation.

### Proposals for ethical research practice in working with sex offenders

Hearn, Raws et al (1993; p. 52) note that ‘... it is probably impossible to have a written policy (that worked) for all contingencies.’ In this section I do not seek to develop a rigid code of practice for workers researching sex offenders, rather I highlight areas to consider in developing research with this group of people. It is clearly important to consider such issues in both the design and the implementation of any research project (Hearn, Raws et al. 1993; Kvale 1996). I will address, in turn: the nature of the (potential) disclosure, the nature of the risk posed and thereafter make suggestions for developing an ethical and transparent research process.

#### *The nature of the disclosure*

There are three main issues to consider here all of which relate to the detail of the material being disclosed. Does the disclosure identify a specific offender, and a specific victim? If the answer to this question is ‘yes’, then consideration should be given to (a) the nature of the offence/harmful act; (b) the identity of the perpetrator; (c) the identity of the victim and (d) when the offence/harmful act occurred or is threatened to occur.

(a) The nature of the (actual or proposed) offence/harmful act

The types of offences/harmful acts that are of concern to the present discussion are acts of interpersonal violence. That is to say that the concerns are about incidents or intentions where identified people may be at risk of physical or psychological harm. Additionally, these incidents or intentions will be unknown to any authorities with responsibility for protection of the public (for example, the police, the probation service or social services departments).

(b) The identity of the perpetrator

Whilst in most cases this person is likely to be the man being interviewed. As the case of Dennis above illustrates, sometimes other people may be named as harming specifically identified people. When this occurs the issue of breaking confidentiality is slightly more complex, insofar as what the researcher would be reporting is second-hand information, which may later be denied.

(c) Identity of victim

A man being interviewed may identify a specific person or persons that they have harmed in the past and that these actions have never been reported to the police. Also a research participant may name a person that they intend to harm in the future. It is possible that people being researched may express a general intention to harm members of the public not specifically identified. Similarly they may indicate that they intend to harm themselves. Additionally the researcher her/himself may feel (or be) threatened.

(d) When the offence/harmful action occurred or is threatened to occur

In most qualitative research, particularly life history research, the focus is on research participants accounts of their past. Thus it is more likely that the moral dilemma (see above Hearn, Raws et al 1993; p. 50) will be focussed on whether or not to report an 'unsolved' crime; where the offence is one of interpersonal violence I would not agree with the position taken by Scully (1990) that past behaviours are of no concern. Additionally, in some cases, the research participant may express intentions to harm someone. The ethical and practical issues are different according to whether the potential victim is specifically identified: these are discussed fully below.

#### *The nature of the risk*

The nature of the risk is identified by considering the four elements in the previous section. These enable the researcher to consider systematically the seriousness of their concerns about public safety. All of these elements are rooted in the interview process itself, however, according to the type of research being undertaken, the researcher may have access to additional information (such as criminal records, and prison files) that may help to give further substance to concerns about the danger posed by research participants. Thus if there is a clear specificity (e.g. identified offence, identified victim) about the disclosure of unreported offences or of a future risk to known or unknown victims then I would suggest that this information cannot remain confidential.

*Implications for research: developing an ethical and transparent research process*

Research, and particularly qualitative research, with people who have committed sexual offences is important for more than heuristic reasons: it may contribute to the development of more effective public protection policies and practices.

However, if the ethical protocols in the research process prevent sex offenders from talking about unreported sexually coercive behaviours that they have perpetrated, then qualitative research may have a limited role to play in improving public safety. The following suggestions may go some way towards developing research practice that does not compromise individual safety and yet allows the participants to discuss unreported sexually coercive behaviours.

- Disclosure of unreported illegal sexual behaviours.
  - Most, but not all, of the sources reviewed above had developed some form of statement informing research participants of the limited nature of confidentiality. I would, therefore suggest that this position forms the basis of any research with in this area.  
  
Research participants are informed that if they discuss coercive and illegal sexual behaviours that have not been reported to the police and they identify specific victims and offender(s) this information will be passed on to the police.

- Disclosure of intention to harm
  - Where a research participant expresses intentions to harm someone who is specifically identified there are no grounds for maintaining confidentiality.
  - Where a research participant expresses a general intention to harm someone; there are two issues to consider – (i) is the threat time specific (e.g. 'I will harm someone tonight')? and (ii) is the research respondent subject to any statutory control (e.g. a serving prisoner or on parole licence)? If the researcher is able to answer both questions and the answer is 'yes', I would suggest that the researcher has a duty to inform the either a person in authority in the prison, or the probation officer supervising the statutory licence.
- Reminders of boundaries of confidentiality. Given that interviews with sex offenders may last many hours and occur over a number of days, the participants should be reminded of the boundaries of confidentiality at the start of each session.

The above suggestions provide a clear framework for researchers undertaking qualitative work with sex offenders. However, in themselves they create a negative framework in which to conduct interviews. In order to encourage research participants to describe fully issues concerning coercive sexual behaviours, Chin-Keung's (1986) approach may be helpful. He encouraged participants to discuss illegal/unreported sexual activities in generalised terms. He specifically discouraged the men that he was interviewing from revealing any

personal details about their unreported behaviours. This approach allows the full discussion of previously unknown coercive sexual behaviour without the necessity of reporting such behaviours to the police. This may produce accounts of offending behaviours that will help to develop social policy designed to protect the public. Whilst such accounts may lead the researcher into areas that are painful and difficult to listen to, this approach to confidentiality avoids the difficult ethical issues outlined above, for as Hearn, Raws et al (1993; p. 50) note '... interviews are strictly for research purposes' obtaining information that may secure a conviction is not a secondary objective of research with sex offenders.' Chin-Keung's (1986) approach allows sex offenders to talk about all of their behaviours in an open way without risking prosecution.

## **Summary**

In this paper I have explored some of the dilemmas implicit in qualitative research with adult male sex offenders. Whilst, on the one hand, a long semi-structured interview may cause a research participant to lower his guard and to say things about the nature of sexual offending that would not be discovered through quantitative and other approaches, such as documentary approaches, the danger of this approach is that the sex offender may describe circumstances that reveal hitherto unidentified risks to other people. This potential dilemma requires careful consideration of the nature and limits of confidentiality offered to respondents in research. The issue starkly put is that the benefits of total confidentiality may be the obtaining of a more complex picture of sexual

offending, but the costs of such a guarantee may be that the researcher acquires detailed knowledge of ongoing harm or risk and is unable to do anything to prevent it. An ethical way forward for research in this area is to develop clear statements of the boundaries of confidentiality that outline what will not be held as confidential, and these statements should be repeated at the start of each interview session. Research participants should be encouraged to talk non-specifically about unreported sexually coercive behaviours. This approach may facilitate the development in depth qualitative research with sex offenders.

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