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Ethical Challenges and Solutions Involved in Reviewing a Protocol with Sex Offenders as Participants: The Concerns and Solutions Identified for Protecting a Highly Controversial Population

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Problem Statement

In reviewing research, the three basic tenets IRBs are expected to abide by are beneficence, justice and respect for persons. The IRB was challenged in meeting these tenets during the course of a recent review. Given the highly controversial participant population of sex offenders and the methodology initially proposed, there were a multitude of ethical challenges uncovered that required unique solutions. The protocol presented to the IRB was developed to investigate the use of networked technologies and communications for the purpose of human trafficking. To do so the researchers proposed recruiting "Johns" or individuals convicted of soliciting sex and interviewing them to discover how they use the internet and networked technologies to find victims online. Ultimately, the research intends to provide technology-based tools for combatting trafficking of minors. So the question for the IRB was how to go about protecting "Johns" while protecting the potential victims and meet the criteria for approval?

Oral Presentation presented on Thursday, November 7 during Panel on "Innovations A: Innovations in Research on Controversial Topics." See Figure 1.

Figure 1.

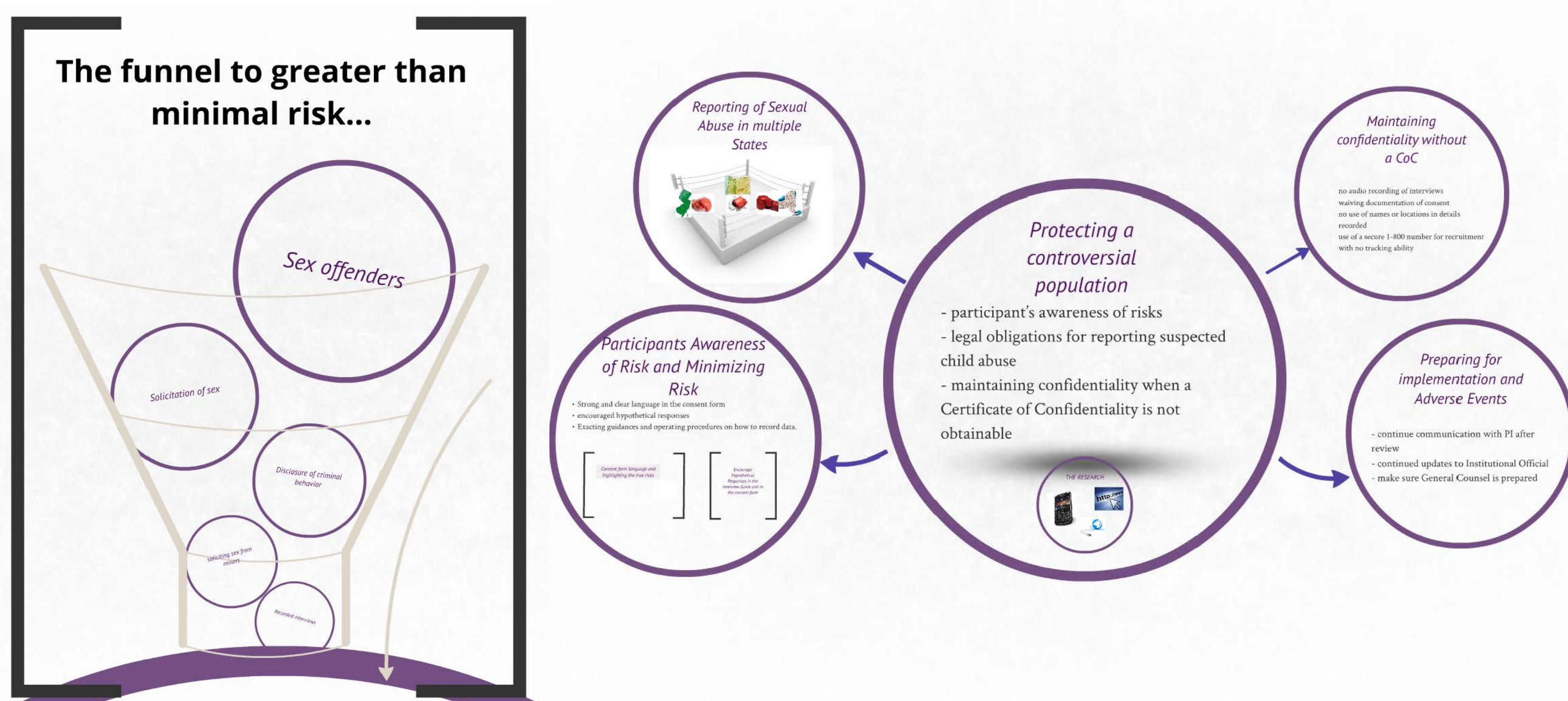


Figure 2: State Regulations and Reporting Child Abuse ¹

The State of New Jersey
 Citation: Ann. Stat. § 9:6-8.10
 Any person who has reasonable cause to believe that a child has been subjected to abuse or neglect shall report the same to the Division of Child Protection and Permanency by telephone or otherwise.

The State of New York
 Citation: Soc. Serv. Law §§ 413(1); 415
 Mandated reporters shall immediately make an oral or electronic report to the statewide central register when they have reasonable cause to suspect that a child has been abused or neglected by a person responsible for that child's care. Oral reports shall be followed by written reports within 48 hours.

The State of Oregon
 Citation: Rev. Stat. § 419B.015
 A person making a report shall make an oral report, by telephone or otherwise, to:
 -The local office of the Department of Human Services or a designee of the department
 -A law enforcement agency in the county where the person is located
 A public or private official is mandated to report.

Study Summary

This study proposed to recruit 100 men for 60-90 minute interviews (in-person and via telephone) intended to determine how "Johns" search for victims online. The men were to be recruited from an offender program and through subsequent respondent driven sampling from the initial interviewees. The respondents are offered \$30 in compensation for their time.

Protections and Study Procedures Developed to Meet Ethical Obligations

Challenge #1: Full disclosure of risks to the participants

Solution: The IRB and reviewers spent a significant amount of effort in gaining information from law enforcement about the potential risks to the participants and the consequences to collecting the data as proposed. This included discussions with two local prosecutors' offices and other legal expertise. Based on the information collected from these experts, and even with no identifiers collected from participants, there was still a potential risk for legal action. After input from University Counsel, the consent form and interview guide were carefully constructed to include the risks to each participant. A consent form excerpt is below:
 Consent form excerpt:

Any information you give us including transcripts of the interview might be subpoenaed by law enforcement. This may result in possible legal action, public embarrassment or loss of employment... In order to protect yourself, do not tell us about any crimes you plan to commit in the future.

Challenge #2: Differing State regulations on mandatory child abuse reporting

Solution: As shown in Figure 2, the regulations in the three states involved in this research varied widely. The State of Oregon has a vague reporting requirement that does not mandate reporting by anyone who is not considered a mandatory reporter. Similar to Oregon, in New York the regulation require only mandatory reporters (teachers, social workers, doctors etc.) to report child abuse. However the most conservative and stringent of the three states is New Jersey. Anyone in the State of New Jersey who suspects child abuse or neglect is mandated to report to the authorities and could be subject to prosecution if a report is not made. The committee agreed that while the population of victims were not the participants in this study the obligation to provide any information (even without identifiers)g was critical in the context of this research topic.

Excerpt from consent form:

If you tell us about any incident of child abuse, we are required to report this.

Challenge #3: Limiting the amount of information that would be incriminating for the participant.

Solution: The Committee considered several options for helping the researchers in decreasing or eliminating collecting information about crimes that participants were not already arrested and prosecuted for. This procedure was developed to further enhance protections for the participant in case the researcher was subpoenaed. The unique solution encouraged hypothetical questioning with the participant's hypothetical responses.

For example, Rather than the respondent stating "I have solicited sex online at somepage.com website". They would be encouraged to state "I might solicit sex online at somepage.com website"

Excerpt from Interview guide:

You may wish to speak in hypotheticals, e.g., "one would or could or might" rather than "I will."

It is important that when describing your experiences, you do not give specifics/details, e.g., names and dates. We do not want to know your name and we do not want to know the names of people from whom you may have purchased sex. We also do not want to know the specific locations where meet-ups and other events occur.

Excerpt from Consent:

In order to protect yourself, do not tell us about any crimes you plan to commit in the future. Also, do not tell us any specifics or details about crimes you have committed in the past, including names and dates.

Challenge #4: Study was not eligible for a Certificate of Confidentiality which would have prevented the researcher from being subpoenaed.

Solution: The potential risk for the researcher to be subpoenaed and reveal identities of participants became the strongest reason for adding many additional protections. The researcher had originally proposed audiotaping, but the risk for identification was found to outweigh the benefit. Therefore the researchers final protocol only included taking notes by hand or on a computer. Secondly, during the interview guide the participants are asked to adopt an alias so as to not use their real name with the researcher. Moreover, recruitment of participants via phone was not done through a direct traceable line rather a 1-800 number was set up that would ultimately prevent tracking down the original cell phone number. Finally, all of the study materials recruitment script, consent form, and interview guide were regularly injected, multiple times, with reminders to the participants and researchers on avoiding any potential identifiers. Essentially the researchers and committee were determined to be left with data that could never be traced back to the participant.

Excerpt from Interview Guide:

Please DO NOT provide details or specifics about any meet-ups, including names, and dates. I DO NOT want to know your name or the names of people with whom you have engaged in sex/purchased sex. I also do not want to know any dates or locations of meet-ups or other events.

Excerpt from recruitment script:

In order to protect your confidentiality please DO NOT tell me your real name at any time.

References

1 Administration for Children and Families, US Department of Health and Human Services Website Accessed October 29, 2013.
https://www.childwelfare.gov/systemwide/laws_policies/state/can/

Special Thanks to the Montclair State University Institutional Review Board Members