

Criminology 321 / Week 4

Logic and Principles of Qualitative Inquiry Cont'd

How I Learned What a 'Crock' Was



- Great example of
 - inductive, emergent approach
 - patience rewarded
 - questions qualitative researchers ask
 - process, interests, viewpoint
 - *listening* to what people say
 - vocabulary important – us/them, anything evaluative, who belongs/doesn't, explanations

Criminology 321 / Week 4

Ethics in Social Research

Ethics and Ethics Review

- Research ethics in criminology are regulated by
 - disciplinary standards in Criminology such as those articulated by the Academy of Criminal Justice Sciences and American Society of Criminology;
 - assorted SFU policies including the SFU Research Ethics Policy (R20.01) and those concerning academic freedom, integrity
 - the *Tri-Council Policy Statement (TCPS)* on ethics in research involving humans
 - your personal ethical standards

Ethics and Ethics Review

- At SFU, all research with human participants must undergo ethics review and be approved before *formal* data gathering can begin
- I've been delegated review in Crim321
- Your proposals need to identify relevant issues *and* state how they are/will be resolved

Ethics and Ethics Review

- Two fundamental principles that you undoubtedly will have to deal with are:
 - Free and informed consent
 - Confidentiality
- Another common one is:
 - Conflicts of roles, duties, interests

Free and Informed Consent

- In most cases, research requires consent
- Do you always need consent? Not ...
 - when risk is minimal and obtaining consent impractical
 - when engaged in some forms of critical research
 - in public settings when data is anonymous and people are unaware of being observed for research purposes.

Free

- If consent is sought, it must first be “free”
 - Absence of coercion
 - Big concern when there is a power differential and potential conflict of roles, e.g., teacher/student, warden/inmate, therapist/client
 - Ethical dilemmas arise when issues like poverty are mixed in; damned if you do/don't

and Informed

- It must next be “informed”
 - who you are; what participation involves, and
 - any “reasonably foreseeable” risks or complications associated with these
 - what would you want to know if you or a family member were the one participating?
 - the exception? psychologists and their love of *misinformed* consent, i.e., deception

Consent

May be obtained/inferred in different ways:

1. **Expressed:** person **opts-in** in some overt way, e.g., written, oral or by overt conduct (e.g., returning a questionnaire);
2. **Implied: opt-out** possibilities are provided and person does not do so (e.g., does not leave research site);
3. **Oral:** okay where signed consent culturally inappropriate, or where there are good reasons for not recording opt-in or opt-out in writing

Free and Informed Consent

- In qualitative research, consent is typically **oral**
 - The ideal relationship is one based on **rapport**, mutual **trust** and **respect**, not contract law
 - Written consent creates paper trails which can undermine ability to maintain confidentiality
- Current Issues
 - Getting REBs to understand the qualitative research relationship
 - Secondary data; linking diverse data sets beyond anticipated consent

Confidentiality

- A fundamental obligation. Probably the most important for social sciences, criminology
- Criminology's approach exemplified by *ASC and ACJS Codes of Ethics*:
 - “Confidential information provided by research participants must be treated as such by criminologists, even when this information enjoys no legal protection, and legal force is applied.” (Section 19)

Confidentiality: Subpoena

- Commitment to confidentiality most directly challenged through subpoena
- In the U.S., subpoenas have arisen in two main contexts:
 - Legal authorities (esp. grand juries) looking for information useful in criminal prosecution
 - Civil litigation
- In Canada, only one formal challenge

Confidentiality: Subpoena

- Statute-based protections exist in the U.S.
 - Confidentiality Certificates for health (NIH)
 - Privacy Certificates for criminology (NIJ)
 - Biggest threat otherwise is *USA Patriots Act*
- In Canada, privilege is left to common law
 - Two kinds of privilege: class and case-by-case
 - Researchers should use the “Wigmore test” as a guide for designing research on sensitive topics

The Wigmore Criteria

1. the communications must originate in a *confidence* that they will not be disclosed.
 - “Without confidence there can be no privilege”
 - Make pledge clear: “this is ‘strictly confidential’”
2. this element of *confidentiality must be essential* to the full and satisfactory maintenance of the relation between the parties.
 - General case is easy; consider whether it is integral to *your* research
 - Privilege belongs to participant

The Wigmore Criteria

3. the *relation* must be one which in the opinion of the community ought to be sedulously *fostered*.
4. the *injury* that would inure to the relation by the disclosure of the communications must be *greater than the benefit* thereby gained for the correct disposal of litigation.
 - Balancing test
 - Courts very protective of participants

(Wigmore, 1905; italics in original)

The Wigmore Criteria

- So ... don't get hysterical, but do "Wigmorize" when
 1. confidentiality is essential;
 2. repercussions to participant are potentially significant; and
 3. can envision someone interested
- Two criteria you can do something about
- Remember ... best chance; no guarantees

Confidentiality

- But don't get hysterical: subpoenas are incredibly rare events, and the court record is a good one
- More routinely, the biggest thing to remember is how to manage confidentiality in your research:
 - Confidentiality is the participant's right
 - Don't be a blabbermouth; don't leave data around
 - Anonymize wherever possible and as soon as possible
 - If appropriate, anticipate the Wigmore criteria

THE VANCOUVER SUN

FINAL EDITION WWW.VANCOUVERSUN.COM SERIOUSLY WESTCOAST SINCE 1912 WEDNESDAY, MARCH 21, 2007

Government computers, data tapes and other equipment can contain sensitive personal information about British Columbians. We show you where it's leaking out.

PRIVACY NIGHTMARE

Sensitive files on stolen computers

BY CHAD SKELTON
VANCOUVER SUN

The provincial government had more than 100 pieces of computer equipment and dozens of laptops and cellphones stolen last year, according to documents obtained by The Vancouver Sun.

The equipment was worth an estimated \$300,000.

In response to a freedom of information request from The Sun, the provincial government produced a list of all computer equipment and cellphones lost or stolen in the 2004-05 fiscal year.

In total, 136 pieces of computer equipment, 11 laptop computers and nine cellphones were reported missing during the year.

The government said all of these items were stolen rather



A VANCOUVER SUN EXCLUSIVE

Hackers got into province's system

BY MIRO CERNETIC
VANCOUVER SUN

VICTORIA — The RCMP is investigating how hackers created the B.C. government's computer network to place unauthorized software and monitor on government hard drives, the provincial government disclosed Tuesday.

The revelation, the latest in a spate of embarrassing security breaches, came from the New Democratic Party, which raised the issue in the legislature.

"The opposition has been advised that at least one branch of security that involved a minimum of 78 government computers and access through [the] highest level of protocols and involving several ministries



confidential records on thousands of British Columbians, initially suggested the NDP was cooperating a minor breach in which no personal information was stolen.

Personal data sold with BlackBerries

BY JONATHAN HOWLIE
VANCOUVER SUN

A government auction that sold 41 computer tapes containing confidential files has also sold hand-held organizers without removing sensitive information, The Vancouver Sun has learned.

The Sun obtained a login code and password for a B.C. Forces banking website that belongs to an employee of the Ministry of Children and Family Development.

The information was given to the Sun by the man who bought the 41 computer tapes last May. The man, who wishes to remain anonymous, said the login information came from one of seven BlackBerries he purchased in September from the same government



sands of government employees and jobs.

Those files, which include names, addresses and phone numbers of

Conflict of Interest/Roles/Duties

- Corporationalization of the university and faculty means many researchers and the university no longer independent; may have conflicts of interest
 - e.g., Australian anthropologists
 - e.g., “partnerships” with industry
- But COI is more than just financial interests

Conflict of Interest/Roles/Duties

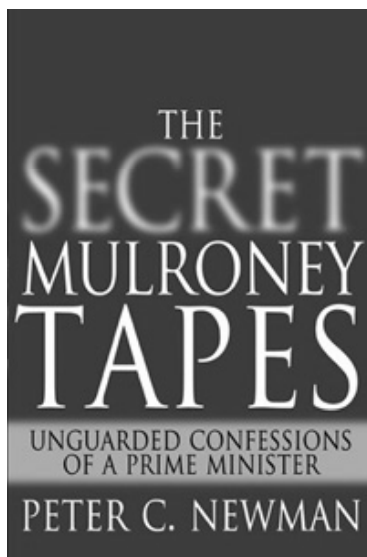
- Professionalization/proliferation of research skills/interests opens possibility for conflicts of interest
- Conflicting roles
 - What happens after the research is over?
 - Power dynamics of teacher/researcher, police officer/researcher, social worker/researcher, etc
 - Conflicting allegiances; conflicting standards (e.g., regarding confidentiality/disclosure/reporting)

Conflict of Interest/Roles/Duties

- Conflicting duties: TCPS is clear you must distinguish roles when professional/research standards may create a conflict:
 - “To preserve and not abuse the trust on which many professional relations reside, researchers should separate their role as researcher from their roles as therapists, caregivers, teachers, advisors, consultants, supervisors, students, employers and the like.” (p.2.4)

Conflict of Interest/Roles/Duties

- That's the sort of conflict that Peter Newman had when he sat down to write a book about Brian Mulroney
- Newman and Mulroney were friends from university days
- Mulroney spoke candidly to his friend (on tape) throughout his time as Prime Minister
- And then ...



Mulroney 'devastated' by Peter C. Newman book

Last Updated: Monday, September 12, 2005 | 11:17 PM ET
[CBC News](#)

A spokesman for Brian Mulroney said Monday the ailing former prime minister feels "devastated" and "betrayed" by the release of a tell-all book by Peter C. Newman.

Luc Lavoie said Monday that Mulroney was stunned to turn on the television and learn that what he considered his private reflections would be on store shelves this week. Lavoie said that while Mulroney was furious at his estranged friend, he also blamed himself. According to Lavoie, Mulroney said "I was reckless in talking with Peter C. Newman. This was my mistake and I'm going to have to live with it."

Mulroney is undergoing physiotherapy and still recovering from surgery following a severe bout of pancreatitis months ago.

Lavoie said Mulroney is not challenging the accuracy of the book, *The Secret Mulroney Tapes*, and has no plans for legal action.

The material in the book is based on 330 conversations with Mulroney that took place over 20 years that include crude references about his successor Kim Campbell, startling admissions about the Meech Lake Accord and vicious outbursts at the media and anyone else he felt deprived him of his legacy as the greatest prime minister since John A. Macdonald.

The book quotes Mulroney saying that Pierre Trudeau's contribution "was not to build Canada but to destroy it."

Of Lucien Bouchard, he says, "I have never known a more vulgar expression of betrayal and deceit."

"By the time history is done looking at this, and you look at my achievements as opposed to others, certainly no one will be in Sir John A.'s league -- but my nose will be a little ahead of most in terms of achievements," Newman quotes Mulroney as saying.

Lavoie said Mulroney and Newman signed a deal when Mulroney became Tory leader in 1983. Under that arrangement, Newman would have unlimited access to Mulroney.

Lavoie said in all his conversations with Newman, Mulroney just thought he was gabbing with an old friend. "Brian Mulroney is a very colourful, entertaining man in a conversation that says things that are said because they're entertaining," he said.

Mulroney served as prime minister from Sept. 1984 to June 1993. After he left office, his Progressive Conservative party was trounced by Jean Chrétien's Liberals.



Peter C. Newman's book.

Mulroney suing author over tapes

Last Updated: Thursday, November 24, 2005 | 2:08 PM ET
[CBC News](#)

Former prime minister Brian Mulroney has filed a lawsuit against author Peter C. Newman over his latest book.

Mulroney is disputing the ownership of the tapes Newman made of dozens of conversations between the two men when Mulroney was in office. Mulroney also wants to direct where any profits from the tapes should be distributed.

The tapes formed the basis of Newman's *The Secret Mulroney Tapes: Unguarded Confessions of a Prime Minister*, as well as a 90-minute CBC documentary that was broadcast on Monday night, splicing excerpts from the tape with commentary from Newman.

- CBC TELEVISION: [The Secret Mulroney Tapes](#)

The former prime minister knew Newman was taping their conversations and has never challenged the book's accuracy. He had no plans for legal action when the book was released in September, a spokesperson said at the time.

But in a lawsuit filed in Ontario Superior Court Wednesday, Mulroney demands that:

- Newman cease any future plans to print or broadcast the tapes, with the court imposing a permanent injunction to ensure he doesn't.
- Any money Newman has already made from the tapes be donated to two hospitals in Toronto and Montreal. The tapes be turned over to Library and Archives Canada.
- Mulroney's suit argues that Newman broke the terms of a written deal between the two men about how the tapes should be used, as well as what would happen to them if Newman did not produce the "scholarly and serious" biography of him that Mulroney expected.

The allegations in Mulroney's 14-page statement of claim have not been proven in court.

Mulroney says Newman betrayed their friendship, which went back to 1961.

- FROM SEPT. 12, 2005: [Mulroney 'devastated' by Peter C. Newman book](#)

Newman published what the lawsuit documents call a "scandalous" book based on raw transcripts from the tapes.

In the conversations, Mulroney speaks openly and sometimes in vulgar terms about major events in the recent history of Canada, former colleagues, political foes and the media.

Mulroney was Progressive Conservative prime minister from 1984 to 1993.



Mulroney fighting back.



Peter C. Newman's tape recorder was rolling.

The Mulroneys Tapes

- CBC Produced an hour long documentary that juxtaposed what Mulroneys was saying in public with what he was telling Newman in private
- The interviews extended over years and covered every topic imaginable



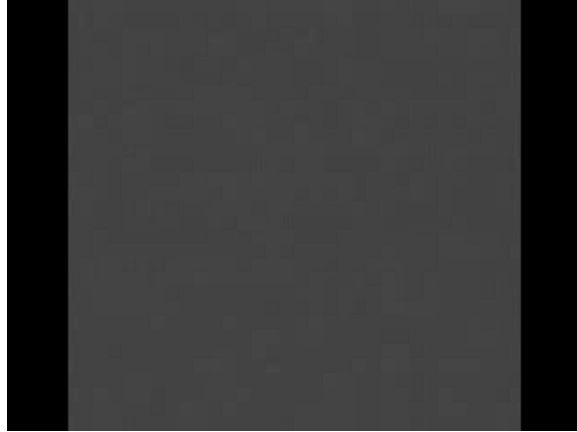
The Mulroneys Tapes

- Here is an excerpt from the film in which we hear one of the taped conversations between Mulroneys and Newman



The Mulroney Tapes

- Here are excerpts from the CBC documentary where Peter Newman explains his choices



Conclusions

- The researcher-participant relationship is unique -- *volunteer* participants entrust the details of their lives to us. Treat them with utmost care.
- Regarding confidentiality, be honest.
- If *not* prepared to offer unlimited confidentiality when the participant could be harmed, *do not do the research*, or alter its focus, because otherwise you put participants at risk. Only ask what you are prepared to defend.