

Controversies Surrounding Laud Humphreys' Tearoom Trade: An Unsettling Example of Politics and Power in Methodological Critiques

by *Michael Lenza*, University of Missouri-Columbia

Laud Humphreys' *Tea Room Trade: Impersonal Sex In Public Places* (1970) is commonly presented in many sociological methods texts as an example of covert and deceptive research methods that endangered subjects without their consent. The following excerpt is reasonably representative of how this work tends to be presented:

“In Laud Humphreys' tearoom trade study (a study of male homosexual encounters in public restrooms), about 100 men were observed engaging in sexual acts as Humphrey's pretended to be a “watchqueen” (a voyeur and lookout). Subjects were followed to their cars, and their license numbers were secretly recorded. Names and addresses were obtained from police registers when Humphreys posed as a market researcher. A year later, in disguise, Humphreys used a deceptive story about a health survey to interview the subjects in their homes. Humphreys was careful to keep names in a safety deposit boxes, and identifiers with subject names were burned. He significantly advanced knowledge of homosexuals who frequent “tearooms” and overturned previous false beliefs about them. There has been controversy over the study: The subjects never consented; deception was used; and the names could have been used to blackmail subjects, to end marriages, or to initiate criminal prosecutions” (Neuman 1997: 447).

Regarding these issues surrounding research on human subjects, this paper will argue that this dominant view of Humphreys' tearoom trade study, focusing primarily upon respect for autonomy (informed consent), misinforms the reader as much as it informs of the underlying moral and ethical foundations for research with human subjects. Three moral and ethical principles provide the foundations for most medical, scientific, and social research methodologies: beneficence, justice, and respect for autonomy (informed consent) (Faden and Beauchamp 1986: 5). I will first review each of these three ethical foundations for sociological research, then, I will examine Humphreys' Tearoom

Trade study through the vantage point of each and the historical facts surrounding the controversies.

Humphreys' study in casual public sex, when historically situated and examined through each of the three ethical and moral pillars, will provide a more balanced framework from which to view his work. In addition, this more balanced view may promote better understanding of how ethical and methodological dilemmas arise when the underlying principles for human research come into conflict with each other.

The Pillar of Beneficence

Beneficence carries within it perhaps the most basic ethical and moral consideration before a social researcher. It requires the researcher avoid harming the subject. *Beneficence* also carries with it a stipulation that research activities decidedly benefit others:

“The principle of beneficence includes the following four elements, all linked through the common theme of promoting the welfare of others: (1) one ought not to inflict evil or harm; (2) one ought to prevent evil or harm; (3) one ought to remove evil or harm; (4) one ought to do or promote good. (Faden and Beauchamp 1986: 10)

These four elements are not so much a hierarchical ordering of considerations as an interconnected pattern of considerations that should be weighed and present in all stages of research. A small potential for harm can be acceptable if it serves to prevent, remove, or correct a larger harm or evil likely to be experienced by the subjects. There is an unavoidable element of paternalism in *beneficence* that can, and often does, create conflicts with respect for autonomy.

The Pillar of Respect for Autonomy

Rooted in our principle of respect for autonomy, *informed consent* is believed to protect a subject's right to make autonomous decisions so as not to infringe upon self-determination (Faden and Beauchamp 1986: 8-9, 27-28). Although research involving human subjects is as old as medicine itself, institutional concerns and formal requirements for *informed consent* for human subjects is a relatively recent develop-

ment that grew out of accounts of misconduct uncovered at the Nuremberg trials of Nazi physician's experiments with human subjects.

It is interesting to note that it was actually Germany, in 1931, who were the first modern nation to enact strict regulations on the use of human subjects in medical research. These regulations specifically required researchers obtain the willing consent "in a clear and undebatable manner" before human subjects could be used (Sass 1983; Faden and Beauchamp 1986: 154). This fact is omitted in historical revisionist reviews of *informed consent* that present the Nuremberg Code of 1947 as the first major code addressing this issue (Belmont Report 1979).

It is important to recognize that horrific human experimentations, conducted by the Nazis, were carried out in the presence of strict legal doctrine prohibiting such crimes. History should inform and temper researcher's beliefs that bureaucratic structures function independent of the social and political events surrounding them. As history indicates, Internal Review Boards and Professional Codes of Ethics, though helpful, cannot serve to replace the ethics of individual researchers.

The Pillar of Justice

The concept of *justice*, as addressed in the literature on human subjects, is problematic for sociologist. It is approached principally from an economic and rational choice model for distributive justice. For example, the Belmont Report (1979) discusses Justice in Section B, Part 3:

“Justice. — Who ought to receive the benefits of research and bear its burdens? This is a question of justice, in the sense of “fairness in distribution” or “what is deserved.” An injustice occurs when some benefit to which a person is entitled is denied without good reason or when some burden is imposed unduly” (Belmont Report 1979).

The subsequent discussion following the above quote is relevant to medical, biological, and social scientific research projects that are developing new products or procedures, but has limited value in guiding social research. The American Sociological Association (ASA) code

of Ethics does not have an explicit section on justice or beneficence, though it does address informed consent at considerable length (ASA 2003).

In a search of the JSTOR database of 24 sociological journals, for articles with the keyword *justice*, 135 articles were returned representing all major paradigms in sociology. The bulk of publications prove to be concerned with social justice. However, *justice*, as defined above is not a primary concern of sociology's acknowledged governing professional body. It is therefore both curious and disheartening to see an explicit emphasis on *informed consent* within the ASA Code of Ethics, which fulfills federal funding requirements, while discussion of justice and beneficence, arguably the heart and soul of the sociological endeavor, is conspicuously absent. Although there are numerous differences and debates about what social justice entails, too numerous for this writing, it is possible to recognize what should be a modest point of agreement: social justice entails an understanding of what is or was, combined with a view to what could be, for human benefit.

An Examination of Humphreys' Tearoom Trade Through the Three Ethical Pillars of Social Science Research

An examination Humphreys' study through all three of the moral pillars underlying social research will establish that his research did not violate any premise of either beneficence or the sociological interest in social justice. His methods in interviewing subjects within their homes under the guise of conducting a health care survey did violate respect for autonomy. However, it is necessary to recognize that there were no federal or professional guidelines requiring informed consent in human research at that time.

Research that conducted a review of studies published in the *Journal of Personality and Social Psychology* in 1971 established that deception was used in 47% of the articles published that year (Menges 1973). Exemplary work in sociology commonly utilized deception. Goffman (1961) posed as an athletic director in his fieldwork for *Asylums*. Gusfield (1955) in *Symbolic Crusade*, informed the Woman's Christian Temperance Union (WCTU) he was a disinterested investi-

gator of social movements (Gusfield 1955: 29; Mitchell 1993: 3). There was nothing exceptional in Laud Humphreys' use of deception in his fieldwork. It fell well within the accepted methodologies of that time period. Further, a more recent in-depth review of secrecy and fieldwork (Mitchell 1993), firmly establishes that secrecy remains to this day an essential element of most research involving human subjects. A belief that informed consent fully informs human subjects and in practice protects their right to autonomy is more a methodological myth than fact:

The following five elements have been identified as the concepts analytical components:

1. Disclosure
2. Comprehension
3. Voluntariness
4. Competence
5. Consent (Faden and Beauchamp 1986: 274)

Research indicates that what *informed consent* really means to subjects is closer to a release, "by letting the doctor do whatever is necessary, best, or whatever he sees fit" (Faden and Beauchamp 1986: 277). While the actual practice of gaining informed consent from patients tended to boil down to merely a ritual of "obtaining a signature on a consent form" (Zussman 1997: 178; Faden and Beauchamp 1986: 277; Mitchell 1993). *Informed consent* implies that subjects understand and agree to every facet of an experiment. This is clearly not true.

The underlying focus and function of *informed consent* is based in its legalistic importance as a signed contract establishing proof of voluntary cooperation protecting the researcher and the sponsoring institution from liability, aligning sociological research with the current funding requirements (Mitchell 1993: 35, 28).

Despite a recent institutional focus upon informed consent as the principle means to protect subjects, beneficence remains the most achievable and strongest moral principle protecting human subjects in

social research: (1) one ought not to inflict harm; (2) one ought to prevent harm; (3) one ought to remove harm; (4) one ought to do or promote good.

The issue of inflicting harm on his subjects revolves around Humphreys' commitment and ability to protect their identity. Humphreys kept the list of his subject's identities in a locked box, at a secret location, 1000 miles away from where his research was conducted. He destroyed the list when a possibility arose that there could be outside interests in the list. He took the identity of his subjects with him to the grave (Reiss 1978:175; Mitchell 1993:53). The facts clearly show Humphreys was absolutely committed to the protection of his subjects and did not allow harm to befall them through his actions. Regardless of one's position on the issues surrounding his methodology, one has to admit he admirably upheld that tenant, "one ought not to harm," (Faden and Beauchamp 1986:10) and successfully protected his subjects' identities.

It was the publicity and homophobic hysteria surrounding Humphreys' dissertation work at Washington University that created a dangerous situation for the subjects. One should ask whether Alvin Gouldner's revelations to Nicholas von Hoffman and the resulting public scandal created a greater potential for harm to subjects than actions by Humphreys (see Goodwin et al. 1991). Metaphorically, if one were to become aware of possible fire hazards and lack of exits in a given building, it would be highly inappropriate to then run through the building screaming "Fire," and thereby actually creating a more immediately dangerous situation. Gouldner's actions in communicating his opinion of Humphreys's study outside of department to Von Hoffman, away from structures of confidentiality for subjects, intentionally created a public scandal where no protections for subjects existed. This could have brought serious harm to Humphreys' participants, as newspapers are exempt from libel if reporting is absent malice. In reality, the publicity generated by Gouldner and Von Hoffman posed a greater danger to participants than Humphreys' observations and follow-up interviews ever did.

Warwick (1982) notes the importance of recognizing the difference between “harms that are *intrinsic* to the research process and those that are *extrinsic* to that process”(Warwick 1982: 121) and even directly quotes Humphreys on the extrinsic publicity intentionally brought by others:

“In the wake of front-page publicity, *fostered by members of the administration and faculty* at Washington University soon after the completion of the research, I am surprised that no such investigation followed” (emphasis my own; Warwick 1982: 108; Humphreys 1975: 229).

Despite this recognition of these extrinsic forces in play, Warwick, who engages in unfettered exposition of imagined harms, does not address or discuss the evidence of actual harms that resulted from these intentional extrinsic acts by others. In fact, the only substantive evidence we have of any harm befalling Humphreys’ subjects are the anxious phone calls he received from several subjects after the extrinsic sensationalizing this study in the public sphere (Glazer 1972; Humphreys 1975: 215).

Should there not be some reasonable constraints upon critics? Is it proper for professionals to publicly accuse other researchers of possible crimes or harms to subjects with no more substantive proof than their mere imaginations or fanciful what if stories that never occurred? If a professional knowingly presents fabricated claims within the public sphere should they then not be responsible for:

1. The anxiety, fears, and harms to subjects that result from the contrived accusations.
2. The harms they create for the accused researcher’s reputation and future.
3. The harm and fears brought to the field of study that arises from these unsubstantiated claims.

Intentionally placing someone in a false light in the public eye is unethical (Pickard 1982: 261). Many ethical critics of sociological research would be well served to turn their imaginative critical musings upon themselves.

If there is a lesson to be learned from this it would be that our first and foremost ethical requirement as practitioners should be the protection of subjects, which would include proper procedures for the bringing about and settling of ethical and methodological disputes. This would be accomplished in a manner that insures the confidentiality and protection of subjects, apart from media attention and personal conflicts.

There is another dilemma in the discussions and presentations of Humphreys' study. Should a possible harm that did not occur take precedence over what actually did occur?

“The subjects never consented; deception was used; and the names could have been used to blackmail subjects, to end marriages, or to initiate criminal prosecutions” (Neuman 1997: 447).

This presentation, as do most methodological reviews of Humphreys tearoom trade study, fits what Best (1990) calls “the atrocity tale” which is then tied to a particular policy position (Best 1990: 132-137; Toulmin et al. 1979: 43-56; Mitchell 1993: 27). This presentation clearly ties a violation of informed consent to the atrocity tales of destroyed marriages, blackmail, and criminal prosecutions. Neuman fails to acknowledge that if *informed consent* forms were used in Humphreys' project, it would have constituted a grave danger to the subjects as those records could be subject to subpoena (Bond 1978: 146; Mitchell 1993: 34). It is not that atrocity tales are not useful. They can inform us of all the many things that could possibly go wrong when conducting sociological research. However, critics can themselves make substantive and ethical errors if they present their arguments in a manner that intentionally substitutes their imaginative musings for the actual substantive reality.

On the way to the office yesterday, one could have become distracted, run over, horribly mangled and killed a neighbor's child, destroyed a family, and caused a terrible grief. An interesting element of “what ifs” is that such statements are very difficult to defend against. By the mere telling of the tale one creates and assigns guilt for events that never occurred. Therein lies the power of the “what if” scenario.

The burden of proof shifts from the teller of the tale to the accused. These types of arguments, substantively based upon nonevents can be inherently unfair, particularly, as in Humphreys' case, when the facts speak to the care and consideration that was undeniably taken to insure that damage to subjects would not occur.

These what if stories surrounding Humphreys work also provide us with a view to politics and power within our profession. Humphreys had little status or power as a PhD candidate completing his dissertation relative to the status and power of established professionals such as Alvin Gouldner and Nicholas von Hoffman. This difference in power and status allowed his critics to merely imaginatively create what if tales, void of any substantive proofs, to forever cast the specter of ethical impropriety around this work. There is no exoneration from what if. Even when established as untrue the specter of the horror remains. It haunted Humphreys throughout his life (Humphreys 1975: 223-232; Nardi 1995). These fabricated "what if" tales did in reality create more harm to subjects, damage to Laud Humphreys' reputation, and did more to undermine public faith in sociological research than any act by Humphreys in conducting the research itself.

More importantly, from the vantage point of beneficence as well as from a concern with social justice, Humphreys' tearoom study made significant positive contributions to the population he studied. His thorough fieldwork exploded the myth that the populations of men engaging in these casual sexual encounters were criminals, transients, or predatory pedophiles that communities needed to hunt down and criminally prosecute. His study firmly established that this casual sexual behavior was limited to consenting adults that transpired in a manner that made it highly unlikely that youths or disinterested parties would be approached or harassed. Furthermore, he established that this population principally consisted of individuals of good standing within the community, many of which were married, employed, and former members of the armed forces. Humphreys' work seriously questioned the received view that homosexual contact should be subjected to the retributive harms of imprisonment and ultimately created doubt in the dichotomous categories of gender that closely paralleled

sexual behavior (Humphreys 1975: 64, and chapters 6 and 7). His conceptualization of the *breastplate of righteousness* was a significant contribution to our understanding that expressed religious and political views sometimes serve as purposeful acts of misdirection. Few studies in sociology have accomplished as much in a single work. Laud Humphreys' *Tearoom Trade* (1970) did not violate the deeper ethical and social concerns of sociology, expressed in the concepts of *beneficence* and *justice*, and it is necessary to recognize both its historical and continuing importance in understanding human sexuality.

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Biographical Information

I received my undergraduate degree in sociology at Southwest Missouri State University and completed my Masters Degree at the University of Missouri, Columbia where I am presently completing two independent doctorates. In Sociology I am completing a historical, political and statistical analysis of the death penalty in Missouri. Preliminary findings from this work was awarded first prize in 1993 for graduate student research in the Social Sciences at the University of Missouri. For my Rural Sociology dissertation I am completing an inter-generational study of Ozark Folk music, collective memory, and community structures. I anticipate completing both doctorates in 1994.

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