

Magdalena Ciechowska \*, Justyna Kusztal \*\*

\* Jesuit University Ignatianum in Kraków [magdalena.ciechowska@ignatianum.edu.pl]

\*\* Jagiellonian University [justyna.kusztal@uj.edu.pl]

## Selected ethical dilemmas and legal problems in autoethnographic research in social rehabilitation pedagogy

**Abstract:** The aim of this article is the presentation and analysis of the selected ethical dilemmas and legal problems of a researcher in the study of the difficult way of life. There are a lot of questions about the ethical, decent and legal manner of research and behaviour in relation with the participators of the research. The practical aim of this article is the answer to the question – what should we do when we have various ethical dilemmas in our studies. A special difficult situation concerns the researcher – a pedagogue of social rehabilitation, because by conducting research on the phenomena of social exclusion or social pathology, he/she describes and analyses situations related to crime, para-criminal behaviours, addictions, touches the problems of deep diagnosis of disorders or therapy. During scientific research, he / she ‘goes deeper’ into difficult situations, ethical dilemmas, and brushes against legal problems. The guarantee of his/her safety, but above all the safety of respondents, is the legal awareness and ethical responsibility of the pedagogue.

Although the article is not a complete and comprehensive study, it responds to the needs of researchers who themselves have to answer many questions about legal issues and solve any ethical dilemmas themselves in the process of collecting and developing data.

**Key words:** Autoethnography, Social Rehabilitation, Law, the Ethical Problems, Criminal Code, Code of Ethics of a Researcher.

## Introduction

The inspiration to write the article resulted from the considerations of Renata Szczepanik and Andrzej Śliwerski *Obietnice bez pokrycia. Etyczne i prawne granice (nie)ujawniania informacji o przestępstwie w badaniach naukowych i psychoterapii* (2017), however, we would like to move to the field of autoethnographic research. Autoethnography as a research method is particularly sensitive to the emergence of ethical or ideological dilemmas, if only because of its still discussed methodological status and the standards of autoethnographic research being created. Therefore, the article is a search for an answer to the question: what are the limits of the legal responsibility of an autoethnographer in the area of scientific interests of social rehabilitation pedagogy and the possibilities of solving ethical dilemmas that may appear in the research process?

Bearing in mind the „classic” universal definition of social rehabilitation pedagogy of L. Pytka – a social rehabilitation pedagogue in empirical research analyses the issues of care, upbringing and therapy (Pytka 1990, pp. 8–9) of socially maladjusted people and is responsible for the research process and its consequences for the future of themselves and the respondents. The social rehabilitation pedagogue, unlike special educators, educators – guardians, school educators and others, explores difficult, conflicting and often criminal environments, collects research material in total institutions, „on the street”, in socially neglected spaces or socially excluded environments.

A qualitative researcher in social sciences, in the process of preparing research and collecting research material, is exposed to potential difficult situations when he/she considers, among others, the issues of protecting the collected research material and the quality of this research. While the autoethnographer must be particularly responsible and sensitive, because he/she is the subject/object in the research process, in addition, he/she describes him-/herself and at the same time other people – co-participants in the examined situations. In the research process, the researcher-autoethnographer defines his/her identity in various contexts, determined primarily by the stated goal and subject of research. In our opinion, in his/her research, the autoethnographer is „particularly dependent” on the research area, in which he/she moves collecting qualitative data.

## The researcher and his/her identity conflicts

Studies on the identity of a qualitative researcher of pedagogy arise from the nature of this science: ”it is not only a positive (positivist) science, but also a moral one, which for the researcher is associated with the need to constantly take into

account cultural values relevant to the respondents and perceived as important in the environment where the research is carried out, even if for the researcher him-/herself they are indifferent – and especially if it would conflict with his/her own scale of values and preferred culture pattern. Carrying out pedagogical research in such a context, the effects of which could be a factor of social change (but not so much revolution as gradual evolution), is always burdened with the danger of becoming involved in intercultural tensions and conflicts, which is important in the case of research problems, interpreting research and presenting their results” (Van der Maren 1999, pp. 213–215; Grzybowski 2106, pp. 127–141)

What kind of identity dilemmas can the researcher experience in the process of qualitative research? Certainly, these will be dilemmas related to professional identity (educator towards unacceptable behaviour, exposing the young generation to evil). Another dimension of the identity dilemma will concern the cultural identity of the researcher and respondents, who usually come from radically different cultures. Further, the researcher and respondents may have completely different ideological identities and this a completely different view of understanding fundamental issues regarding human nature.

The „identity situation” of the autoethnographer is even more complicated for two reasons. The first is direct contact with other people – the autoethnographer describes and researches what is his/her experience, but situations where no other people participate are rare. The second reason relates to the situation when the research area is somehow unusual, special, inaccessible to everyone, for example, related to socially isolated environments (prisons, therapeutic facilities, etc.). Such area consists of closed institutions, described in classical social studies by Erving Goffman as total institutions<sup>1</sup> (Goffman 2011). Similarly, when the subjects, people or groups of people are somehow „original”, that is, they come from deviant or criminal environments, although they function in an open environment on a daily basis (Matysiak 2014). Thus, the subject and the research area (e.g. the participant of the research is a psychotherapist – an employee of a psychiatric hospital or a prison officer) during the research process may, especially during data collection, directly or indirectly provide information on legally relevant behaviour: crime, juvenile offense, attempted crime or aiding suicide. So we are dealing with two situations: the social rehabilitation pedagogue –autoethnographer finds him-/herself in a risk of disclosing information about his/her legally relevant behaviour

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<sup>1</sup> Such as assistance institutions for people who are unable to live independently and take care of themselves (today, for example, social welfare homes, hospices); institutions isolating people who pose a threat to others due to their physical or mental health from the public (psychiatric hospitals and infectious wards in hospitals); institutions isolating persons in conflict with the law (prisons, correctional facilities); institutions related to work and education (today, boarding schools are worth mentioning); institutions that are a place of escape from the world, serving as centres for practicing spiritual and religious exercises (monasteries, seminars). It is worth noting that today these institutions may have the status of both a state and private institution.

and at the same time in the situation of disclosing information about such behaviour of other respondents. These situations are differently legally qualified depending on many factors that should be taken into account, even depending on the specific type of legally indifferent behaviour described (for example, offense or criminal act of a minor) or depending on the passage of time from the described event. The provisions regarding the behaviour of a researcher who meets legally relevant information regulate only some of the behaviours listed in the Act, they do not cover all possible situations. The following part of the article will present applicable legal regulations and outline a map of legal and ethical difficulties in the research process.

## Autoethnography on the qualitative research map

The crisis of representation and the accompanying loss of confidence in knowledge as a form of reflecting the surrounding reality gave space for recognition of autoethnography as a scientific method. However, before autoethnography entered the science arena for good, research based on the biographies of others – retrospective research – led the way.

Retrospective studies are a special form of research, the essence of which is to recall past events. The most common research materials are written narratives obtained during specific data collection techniques (more on this in the next section). Biographical research has already gained an established position, in which the researcher collects narratives that are the *evidence of the past* from his/her subjects, and analyses them. The researcher can also analyse his / her own autobiography, which according to F. Lejeune is „the retrospective prose tale, where the real person presents his/her life, emphasizing his/her individual fate, and especially the history of his/her personality” (Lejeune 2001, p. 22) What are the differences between autobiography and autoethnography? Slight to some, to others who are more inquisitive – constitutive. Autobiographical studies, i.e. those in which the researcher only examines his/her own biography, have not been adequately secured in terms of methodological status. In turn, auto/biographical research is based on the biographies of others (sometimes also autobiographies of the respondents) and the researcher’s autobiography. These narratives are treated equally and are collectively analysed by the researcher (Jakubowska-Malicka 2010, pp. 77–84) The essence of autoethnographic research lies in its name, which indicates a fusion of biography and ethnography. This combination guarantees that the results obtained are not only an analysis of the researcher’s own story, but show it in a broader social light. However, as a relatively young research method, autoethnography has meta-methodological studies (Holman Jones 2015, p. 95–105; Kacperczyk 2014, pp. 33–74; Ciechowska 2018) (and extremely emotional empirical studies) based on it.

Referring autoethnography to biography and answering the question: *why autoethnography in the study of a difficult life path?*, it is worth pointing to an important ethical issue dealing with the understanding of the subject. These arguments relate to the recording and interpretation of the narrative. The authors argue that even its exact transcription does not reflect what the interlocutor wanted to convey (Riesmann 1993), and any interpretation is an abuse, because it is not what the narrator expects from us (Każmierska 2004, pp. 71–96). Others, in turn, point out that objective interpretation is a delusion separating us from someone else's suffering. Finally, the aspect of moral involvement on the part of the subject is raised, which is often limited to hearing it by the researcher (Bednarz-Łuczewska, Łuczewska 2012, pp. 163–188). In the case of autoethnography, the above issues do not apply – it allows the unification of the cognised and cognising subject. Never before has a researcher been as close to cognised reality as in an autoethnographic study. This determined his/her numerous positives, but also became the main reasons for discussing the disadvantages and difficulties of such a study.

Although the first use of the term *autoethnography* took place in 1975 (Heider 1975, p. 3), we owe our contemporary significance to Carolyn Ellis, who described its methodological foundations in the publication entitled *The ethnographic I: a methodological novel about autoethnography* (Ellis 2004). The study of ethnography of oneself is aimed at understanding phenomena occurring in the reality that surrounds us, which we know best.

Due to the volume of this study, we present the most important information necessary for further consideration. That is why all readers who want to feel the power of the impact of an autoethnographic study that gives the opportunity to understand and explain the phenomenon experienced and analysed by one person, and important in a broader culture, are referred to a specific reading – the article (Ronai 1994, s. 395–496) by Carol Rambo Ronai *Multiple reflections of child sex abuse. An argument for a layered account* (published in 1994), which in 1993 won the prize of the International Society for Symbolic Interaction of Herbert Blumberg. In this context, it is also worth mentioning Polish publications: *Kato-tata – Nie-pamiętnik* by Halszka Opfer and its continuation under the title *Monidło. Życie po Kato-tacie* (Opfer 2016; 2017). Despite their shocking message, these items are, however, closer to evocative autoethnography – they present the author's brutal memories (appearing under a pseudonym) in the literary form of a diary. However, there is a lack of deeper analysis and references to scientific theories explaining the surrounding reality, thus objectifying the whole message.

Among the most commonly used autoethnographic forms (indicating the way the results are presented) – evocative, performative and visual – the type that can be accepted by *hard* (not to say – *fossilised*) guidelines for emerging scientific texts, analytical autoethnography certainly has its place (Ciechowska 2018). It is distinguished by the analysis of the author's experience, and at

the stage of interpretation – by reaching for scientific theories explaining the analysed experiences and emotions. More attention will be devoted to analytical autoethnography as this form, the research values of which can be compared with other methods of scientific research.

Autoethnographic studies may be conducted by one (individual autoethnography) – (Chang 2013) two (duo-ethnography) – (Norris, Sawyer 2016) or several researchers who share the same experience (community autoethnography). They may also include people in the study with whom their experience under study is directly related (collaborative autoethnography). (Chang et al. 2013) The researcher may take into account those aspects of his/her life that took place in the past (retrospective autoethnography), are happening now (current) or add his/her plans for the future and dreams to the above (transient autoethnography) (Ciechowska 2018). Understanding autoethnography is broad and includes meanings on a continuum – from the research paradigm, through methods and techniques (Kacperczyk 2014, pp. 33–74). Assuming that autoethnography is a research method, the most commonly used varieties include self-interview and interview with other people (so-called reflective interview) (Douglas, Carless 2013; Ciechowska 2018)), self-observation or the autoethnographic essay (Kacperczyk 2014, pp. 33–74).

## **Autoethnography in research on a difficult life path**

The cognising and cognised world, until the time of the postmodern turn, was enclosed in research and study subjects. Reflection on the significance of this search provided the foundations for autoethnography – a rarely described method of cognition that connects both worlds and research subjects into an integral, holistic depiction of reality. Through the researcher's experience, shown to us first-hand, we can see the world known from two perspectives – of the insider (the autoethnographer) and outsider (the cited theories and the perspective of the reader). The insider is immersed in the experience described and transmits their image undistorted, seen and experienced in the first person. In turn, the outsider's perspective consists in such a description that everything is readable and understandable to the reader and on recalling specific theories by which he/she interprets what was conveyed through the insider's perspective. This combination of perspectives gives the opportunity to deepen understanding of people and contexts that are known. The combination of both perspectives is important for each research area. It gains even more in importance when it describes a closed reality, inaccessible to everyone, around which the built-up myths develop an extraordinary shell and deepen the distortion of cognition. This is the case, for example, with penitentiaries, psychiatric hospitals, closed addiction treatment centres, monasteries (Goffman 2011), or facilities for juvenile offenders.

Meanwhile, research conducted only from an outsider position show a „sterile” point of view (Newbold et al. 2014, p. 440).

The wealth of field research indicates that methods that stand outside the living experience of deviation or crime may sketch its weak outlines, but they can never fill these aspects with significant dimensions of meaningful understanding (Ferrel, Hamm 1998, p. 10) How then is this understanding obtained? The literature points to researchers who, being in penitentiary, decided to reveal and analyse their own experiences. Such authors are Norman Hayner and Ellis Ash (1939) – as prisoners, who voluntarily went to prison, or James Marquart (1986) – a guard. In Polish literature, such examples can also be indicated (Kamiński 2006). The works of insiders-convicts are often the foundations for known scientific theories, although they have not been widely cited. This was the case, for example, with the research by Frank Tannenbaum, published under the title „Crime and community” (1938), whose concept of demonizing evil by labelling young criminals gave the foundation for the theory of labelling. However, the works of John Irwin – one of the few scholars-prisoners, are well known in social rehabilitation. Throughout his entire scientific life, he used the heuristic perspective to eventually become a master in prison reforms, which was realized in the birth of „convicts’ criminology” (Irwin 1987, 2003, XVII–XXII). Interestingly, this researcher also aroused the enthusiasm for learning about reality through one’s own experiences with other former prisoners, which resulted in joint scientific cooperation (Newbold et al. 2014, pp. 439–448). In such studies, life in isolation is shown from the inside – stripped of all illusions, often shocking with its authenticity. One of the ontological problems is the ability to distance oneself from prejudice, bitterness or aversion that can pollute the objectivity of work. It is only in such studies that we obtain a subjective picture of the perpetrator and victim, giving a full understanding of the drama of the crime. This is an extraordinary power of autoethnographic research, however, mixing with its weak point – ensuring anonymity. Data on prisoners and institutions are sensitive and confidential, hence their disclosure may affect the fate of prisoners (Silberman 1995).

At this point, it is necessary to mention the research of Howard S. Becker conducted among marijuana smokers, which is already a classic study of the theory of deviation today in the paradigm of symbolic interactionism (Becker 2009). Polish research carried out „in difficult terrain”, based on the methodology of qualitative research and many original techniques of collecting, and then analysing and interpreting data, is described colourfully by contemporary sociologists and pedagogues (Golczyńska-Grondas 2013; Bernasiewicz 2013; Chomczyński 2014; Szczepanik 2017). Among Polish scientific publications in the field of social rehabilitation, there appeared works of the *quasi*-autoethnographic nature, although the authors do not express it explicitly (Frąckowiak 2017), or articles describing the methodology and organisation of a juvenile detention centre from

the point of view of the director of a juvenile detention centre (Ptak, Ptak 2004). Some publications of H. Machel – a long-term director of a penitentiary institution in Gdańsk-Przeróbka and professor of rehabilitation pedagogy – deal with issues of the methodology of penitentiary interactions in the context of own experience, personal beliefs and experiences of the initiator and organizer of activities directed at prisoners (Machel 2014, pp. 45–57)

It is also worth it is also worth to consider literary fiction, where autobiographical and criminal themes are the axis of the plot. Undoubtedly, the first Polish „criminal” publication (sic!) of an autoethnographic nature is the *Życiorys własny przestępcy* by Urke Nachalnik (Nachalnik 2018). The history of finding this colourful character and the fact of its existence on the map of Polish sociology, Polish social rehabilitation and broadly understood literature is widely known to social rehabilitation pedagogues and is associated with such figures as: Florian Znaniński, Melchior Wańkowicz or Stanisław Kowalski. Urke Nachalnik himself is a person of „flesh and blood” and his multi-faceted (sometimes pornographic) fate is a part of the compulsory reading of „classically” educated social rehabilitation pedagogues, however it is difficult to clearly classify this work (and its continuations, e.g. *Żywe grobowce*, re-published in 2019) (Nachalnik 2019) strictly as analytical autoethnography, it is rather closer to evocative autoethnography. The works of Sergiusz Piasecki, whose adventurist-smuggling-political-criminal work is the subject of many analyses in Polish literature, sociology or history, are of a similar nature (Demel 2001; Polechoński 2008)

It is also difficult to list all contemporary publications (of a very diverse literary level), the context of which is prison reality. Some of them are of the reportage, extended interview or diary nature. In view of the continuing demand for literature and crime films, it is easy to be tempted to look for autobiographical themes from authors of this kind of literature, it is even common to promote their works through the presentation of autobiographical themes. This is the nature of extended interviews or longer narratives of former prison officers, secret intelligence services (Severski 2011) prison doctors (Verella 2014) or even ex-gangsters (Sokołowski et al. 2018; Banasiak, Górski 2018; Sikora, Gruca 2009; Sepioło 2016; Stasiuk 2009)

## Selected ethical dilemmas in autoethnographic research

Autoethnography is a way of exploring the world, which due to balancing on the continuity of intimacy-community, abounds with all sorts of ethical problems. The first is the consent from other co-actors of our lives concerning permission for research. Knowledge about research can lead to misunderstandings, conflicts, and even breaking the relations (Bielecka-Prus 2014, s. 77–94) between the researcher and his/her relatives/colleagues, etc. Moreover, consent given at the beginning of

the study does not mean that the respondents maintain it all the time, hence the practice of the consent process or processing the consent (Ellis 2007, s. 3–29).

A particularly uncomfortable situation is experienced by a researcher who studies his/her own family life, in which other actors occur. There is a significant ethical tension, on which one continuum is asking for consent for research and taking into account his/her refusal, and on the other, a conviction that family life is also social life in a specific prism, and therefore it will be better to know and reveal aspects of life rather than staying silent. Researchers who follow this path take different attitudes. Some argue that since the experience is their participation, they have the right to write about it and not mind the consent of others who have a greater or lesser share in this experience. This is what J. Wyatt did in the description of experiencing the death of his own father (Wyatt 2006, s. 813–818). Another way is to share only parts of notes in the autoethnographic text that are neutral about other people (Ellis 2003, p. 28). The last method is used the least often because of the low factual value – it involves changing characters, adding fictional plots and showing only selected events (Ellis 2003, s. 28). However, this requires great caution so that the events described do not become the author's graphomania (Maguire 2006).

Similarly to the general research methodology, the authors may be guided by various guidelines and codes, so in the case of autoethnography, the guide of ten fundamental principles was written, which the autoethnographer can follow. Due to the difficulty of finding it in the Polish literature on the subject, it will be presented below (Tolich 2010, s. 1–12).

#### Consent

1. Respect the autonomy of participants and the voluntary nature of participation. Document informed consent, which is the basis for qualitative research.
2. Practice the „consent process” to ensure at each stage that participants still want to participate in the study.
3. If you recognize a conflict of interest or influence while obtaining information – obtain permission after writing the text.

#### Consultations

4. Consult with other researchers (Tolich refers to the Institutional Board Review (IBR), for which the teams for research ethics created at universities are the counterpart).
5. As an autoethnographer, do not publish anything you would not show to the people mentioned in the text.

#### Weak points

6. Watch out for internal confidentiality: the threat to relationships is not related to disclosure of information to bystanders, but to confessions disclosed to participants or family members.
7. Treat each autoethnography as a tattoo, anticipating the author's future vulnerabilities.

8. Ethics in the photovoice method (based on the creation of photographs by research participants) assumes that no photograph is worth harming others. Similarly, no story should harm others, and if damage cannot be avoided, take steps to minimise it.
9. If you cannot minimise the risk to yourself or others, use pseudonyms.
10. Assume that one day all the people mentioned in the text will read it.

In the above indications, M. Tolich deals primarily with obtaining consent from the respondents. Coping with the issue of getting it or giving up on the part of other people is not the end of considerations on the ethics of an autoethnographer. Moreover, even dealing with other dilemmas – including legal ones, which will be described later in the article, does not resolve all issues. The literature emphasizes the fact that in collaborative autoethnography it is easier to observe the rules of ethics, because as in every autoethnography we deal with relational ethics, hence in this form of writing it can be discussed with others. Maintaining anonymity for individual people, and thus also other actors mentioned in the text, is much easier here than in the case of individual autoethnography (Lapadat 2017, s. 589–603).

Seemingly, it is just a trivial matter to adopt the literary perspective of the subject – should the text be written in the first or third person? An autoethnographer writing in third person on the one hand may not be sufficiently convincing when writing about personal experiences. On the other hand, such a system is widely accepted in scientific works in which there is a distant entity. First-person writing gives you more options to manipulate the text and its various forms, but it can cause discomfort for the reader. He may feel closely invited, and sometimes even brutally thrown into the vortex of the autoethnographer's personal experience. For example, J. Wyatt (Wyatt 2006, s. 813–818) writes about it, referring to reading the text of C. Ellis describing her relationship with her sick husband (Ellis 1995).

Legal limits of the responsibility of a social rehabilitation pedagogue in autoethnographic studies

The stages of analytical autoethnography, the features of which were thoroughly described by Leon Anderson (Lofland et al., 2009) indicate data collection as well as their analysis and interpretation in relation to scientific theories. In gathering information about a difficult life path, the researcher often brushes against dangerous situations and people who accompany him. Thus, the researcher touches on legal problems and ethical dilemmas. The latter, or „ethical questions, appear at every stage of the research process [...] regardless of the research perspective chosen, or the methods of collecting, analysing and presenting data” (Clegg, Slife 2009). As we pointed out in the previous section, the issues of ethics in qualitative research generally oscillate around several problems, such as ensuring the anonymity of respondents, or identity conflicts of the researcher involved in research projects related to participant observation or experiment (Szczepanik, Śliwerski 2017, s. 151–172; Chomczyński 2014; Ciechowska 2018). This issue is regulated both in our country and abroad, most often in the codes

of ethics of researchers, the standard in this area is the Code of Ethics of the Researcher of the Polish Academy of Sciences (Commission for ethics in science and adopted by the General Assembly of the Polish Academy of Sciences 2016), or the codes of individual professional groups, for example, the Code of Ethics of the Psychologist of the Polish Psychological Association<sup>2</sup> from 2017. What is more, sometimes at the stage of data interpretation, the researcher realizes what he/she participated in and what legal consequences it may have. One of the most important questions arises here: does something threaten me for revealing what I once did?; should I do something for the person who told me this? Do I have to report what I found out somewhere? Should I report myself to the police?

Polish legal regulations clearly indicate the situation when everyone (because it is a general and common norm) is obliged to notify about the accomplishment, attempt or preparation of a prohibited act. This obligation applies to the situation when everyone (including, of course, the autoethnographic researcher) receives information about specific types of offenses. The Code points out to particular crimes here<sup>3</sup>. Among them are the most serious crimes: against peace, humanity and war crimes, against the Commonwealth, against defence, against the life and health, against universal security, against public order, against sexual freedom and decency. This means nothing other than legal, sanctioned, duty to make a notification to the police or prosecutor's office. Two situations should be distinguished here: when the researcher reveals information about a crime he/she has committed, and it has not yet been disclosed and judged, and when the researcher learns of another person's commitment, attempt or preparation of a crime. In the first situation, it should be taken into account whether the narrative is retrospective (and this is the most common case) and the crime has already been detected, tried and the perpetrator is currently liable (under penalty)

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<sup>2</sup> [http://www.ptp.org.pl/teksty/NOWY\\_KODEKS\\_PTP.pdf](http://www.ptp.org.pl/teksty/NOWY_KODEKS_PTP.pdf) (access: 9.12.2019).

<sup>3</sup> Act of June 6, 1997 (i.e. Journal of Laws of 2018, item 1600, 2077) Penal Code, Art. 240. § 1. A person having reliable information about punishable preparation or attempting or committing a criminal act specified in art. 118, art. 118a, art. 120–124, art. 127, art. 128, art. 130, art. 134, art. 140, art. 148, art. 156, art. 163, art. 166, art. 189, art. 197 § 3 or 4, art. 198, art. 200, art. 252 or a terrorist offense, who does not immediately notify the body appointed to prosecute crimes, is subject to punishment by imprisonment of up to 3 years.

§ 2. The person does not commit the offense specified in § 1, having a sufficient basis to suppose that the authority referred to in § 1 knows about the prepared, attempted or committed offense; the person who prevented the performance of the prepared or attempted offense specified in § 1 also does not commit a crime.

§ 2a. The victim suffering from the act mentioned in § 1 who has failed to notify about this act shall not be punished.

§ 3. The person who failed to make a notification for fear of criminal liability threatening him/her or his/her immediate is not subject to penalty. It is worth pointing out here the theses of the Criminal Code quoted by R. Szczepanik and A. Śliwerski, created by Lech Gardocki, who states that the obligation to notify about a crime repeals journalistic secrets described in the press law and medical secrets described in the Act on the Medical Profession.

or has already incurred liability. The limitation period for criminal records should also be taken into account<sup>4</sup>. However, in the second situation, it is necessary to indicate the universal and general norm already cited above, expressed in art. 240 of the Penal Code regarding the legal obligation to notify the relevant authorities. In a situation where the researcher has obtained information about a prohibited act other than listed in the catalogue of art. 240, the obligation to notify law enforcement authorities is social, which means that it is not subject to criminal penalties. Then the researcher, the autoethnographer, in solving the problem accompanying him/her, should be guided by the law and the code of ethics of the researcher.

A researcher who is characterized by a high level of legal awareness (above all, having knowledge of applicable legal norms and presenting a positive attitude towards the law) in the above-mentioned situations of obtaining information about a crime will not hesitate to act in accordance with the law. Earlier, however, when commencing research, he is obliged by law<sup>5</sup> and the Code of Ethics of scientific

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<sup>4</sup> Act of June 6, 1997 (i.e. Journal of Laws of 2018, item 1600, 2077) Art. 101. § 1. The punishment of an offense ceases if the following number of years have passed since it was committed:

- 1) 30 – when the act constitutes a murder crime;
- 2) 20 – when the act constitutes another crime;
- 2a) 15 – when the act constitutes an offense punishable by imprisonment exceeding 5 years;
- 3) 10 – when the act is an offense punishable by imprisonment exceeding 3 years;
- 4) 5 – when it comes to other offenses.
- 5) (repealed)

§ 2. The penalty of an offense prosecuted by private prosecution ceases after one year from the time when the injured party learned about the perpetrator of the crime, but no later than three years after it was committed.

§ 3. In the cases provided for in § 1 or 2, if the offense depends on the occurrence of the effect specified in the Act, the limitation period begins from the time when the effect occurred.

§ 4. In the case of:

- 1) offenses against life and health, committed to the detriment of a minor, threatened with a penalty, the upper limit of which exceeds 5 years of imprisonment,
  - 2) offenses specified in chapter XXV, committed to the detriment of a minor or when pornographic content includes the participation of a minor
- the statute of limitations for criminal offenses may not occur before he/she reaches 30 years of age.

<sup>5</sup> The right to privacy is described in the Constitution (Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws of July 16, 1997) which in article 47 states that „Everyone has the right to the legal protection of private, family life, honour and good name and to decide about their own personal life”. The applicable penal code strictly mentions information protection offenses in chapter XXXIII, while Art. 266. § 1 states: A person who, contrary to the provisions of the Act or an assumed commitment, discloses or uses information with which he/she became acquainted in connection with the function he/she performed, public, social, economic or scientific activity, is subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 2. A public official who discloses classified information to an unauthorized person on the „restricted” or „confidential” clause or information which he/she obtained in connection with the performance of official duties, the disclosure of which may damage the interest of a legally protected interest, is subject to the penalty of deprivation of liberty for up to 3 years.

§ 3. Prosecution of the offense specified in § 1 is at the request of the injured party.

research (Commission for ethics in science and adopted by the General Assembly of the Polish Academy of Sciences 2016) to inform the research participant about the purpose of research and the limits of the use of collected information. Respondents may have concerns about how the information they use will be used, which is why providing information in accordance with the law and professional ethics is crucial for building trust in the researcher and the sense of security of the respondent. However, the literature gives examples that show that being informed about the necessity of such behaviour by the researcher or various techniques of defence against obtaining such information (e.g. information, „If this is not suitable for recording, please do not tell me about it at all” (Szczepanik, Śliwerski 2017, s. 162) impacts the quality of collected material, and may even result in breaking contact.

The researcher is in conflict here, which can be placed on a continuum: extensive, rich, interesting data vs legal behaviour. Universal and general legal norms have priority over codes of medical ethics or the ethics of a researcher. They are not sources of law. However, the role of the code of professional ethics cannot be overestimated here, because „ethical codes may, however, have one more important role – to constitute a „protective shield” for researchers when trying to force them to behave inconsistently with the ethics of the researcher” (Ciuk, Latusek-Jurczak 2012, s. 24).

It should be emphasized here that in Poland researchers do not have the protection, as in the United States, for example, of concealing the data of subjects who have committed a criminal act. The history of such privilege in American law is not distant. In 1990, student Rik Scarce wrote the book *Ecowarriors: Understanding the Radical Environmental Movement*. Participants of this social movement in 1991 committed an attack on a research laboratory. The judiciary decided to interrogate the person who had met the movement participants, but he refused to testify (covering himself with ethical code of the American Sociological Association, which then required the researcher to keep absolute secrecy), for which he was imprisoned. He spent 159 days there until the judge ruled that his detention exceeded the legal intention of *coercion* and immediately became *criminal*. The association that Scarce referred to supported him *amicus curiae*<sup>6</sup>. Scarce and other researchers have provided federal authorities with arguments for granting field researchers the right to protect contacts with their informants (Lofland i in. 2009).

In Polish legal regulations, the knowledge of which may be of great importance for researchers operating in particularly difficult environments, Renata

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<sup>6</sup> The institution of the „friend of the court” is derived from Roman law and is used today in common law, although it occurs in our country, where it is sometimes used by the Helsinki Foundation for Human Rights. These are the opinions of specialists who, although they are not a party and are not appointed by the court, as experts can provide relevant information for the decision.

Szczepanik and Andrzej Śliwerski in the article cited above indicate two more issues. It is a situation of becoming aware of violence against a child in the family<sup>7</sup> and a situation of recognizing the crime by a therapist – psychologist or psychiatrist while conducting research<sup>8</sup>. While in the case of a psychiatrist, medical confidentiality is involved, in the event of becoming aware of crimes that meet the criteria of domestic violence (abuse), the institution has a legal obligation to inform the appropriate law enforcement authorities. If the researcher – autoethnographer describes the situation of his/her relatives in the research, then he/she should also be guided by the principles of the protection of the right to privacy and an absolute order to inform law enforcement authorities about attempt, preparation or commitment of a criminal act listed in art. 240 of the Penal Code<sup>9</sup> (which has already been referred to many times here).

The above-mentioned codes of professional ethics and their function in research cannot be illegal when the law strictly states what to do. But in a social situation when a researcher wants the best access to data and reliability of his/her research, and to protect his interlocutor, it is worth remembering that „People are defined in the tissue of everyday life as communicative beings. Through a dialogue, the entities create a common life together and cultivate mutual moral obligations” (Christians 2009, s. 227) Therefore, one should always keep the common good in mind and look into further relations and the impact of research on them. In difficult situations, a good solution must always be the result of deliberate decisions. These, in turn, can never be against the law.

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<sup>7</sup> Act of July 29, 2005 on the prevention of domestic violence (i.e. Journal of Laws of 2015, item 1390) Art. 12. 1. Persons who, in connection with the performance of their official or professional duties, have been suspected of committing an offense prosecuted by law using domestic violence, immediately notify the Police or the prosecutor about it.

2. Persons who are witnesses of domestic violence should notify the Police, prosecutor or other entity acting to prevent domestic violence.

<sup>8</sup> Act of August 19, 1994 on the protection of mental health (i.e. Journal of Laws of 2018, item 1878, of 2019, item 73) in art. 51 states that „In the documentation regarding examinations or the course of treatment of a person who has been subject to activities resulting from this Act, statements including admission of a criminal offense shall not be established. This rule also applies to documentation of tests carried out at the request of an authorized body. In addition, even when a psychologist, therapist, doctor notify, in accordance with art. 240 of the Penal Code, about the committing of a crime by a patient, they will not testify before law enforcement authorities, as provided for in Art. 52. 1. of this Act: It is not allowed to interrogate persons obliged to keep secret, pursuant to the provisions of this chapter, as witnesses on the occasion of statements of the person against whom actions resulting from this Act have been taken, as to the commission of an offense under penalty of punishment.

2. The prohibition referred to in par. 1 shall apply, respectively, to doctors carrying out expert activities”

<sup>9</sup> Act of June 6, 1997 (i.e. Journal of Laws of 2018, item 1600, 2077), art. 240

## Ending

Ethical dilemmas and legal problems are always a part of life, and thus – are also included in autoethnographic research. The researcher must always choose, and in his/her choice, he/she must act in such a way that he/she can look everyone in the eye, including him-/herself. The ethical dilemmas described are inscribed in the autoethnographic research conducted by the socialization pedagogue more than in other types of research, because the researcher does not appear out of nowhere, does not come, but is an insider, someone who is closer, trusted by others involved in difficult research, intimate situations related to breaking the law. The aim of the article was to analyse the legal problems and ethical dilemmas that accompany the researcher – the social rehabilitation pedagogue in studying his/her own way of life using the autoethnographic method. We tried to describe general principles and formulate some signposts – where to look for possible solutions. We – as researchers – are struggling with these difficulties and we see the need to deepen legal awareness and ethical sensitivity in our research even more. The protection of the respondent – the informer, but also the protection of ourselves, especially in autoethnographic research, is the motivation to try to achieve the practical goal, which is to provide knowledge about solutions consistent with the law and the ethics of scientific research.

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