Introduction

There has been a recent movement to adopt a sex-positive framework in all areas of psychological practice, including research, clinical practice, supervision, and education/training in psychology. Although there is no widely accepted definition of sex-positivity (Kaplan, 2014), sex-positivity has previously been described as an individual or group emphasis of openness, nonjudgmental attitudes, freedom, and liberation from sex-negative attitudes and paradigms, which celebrates diverse sex expressions, practices, and identities (Cruz et al., 2017; Donaghue, 2015; Williams et al., 2013). A sex-positive framework incorporates inclusiveness and diversity in approaches to sexuality, as it integrates feminist, multicultural, queer, transgender, postmodern, and social justice theoretical models in examining sexuality and sexual behaviors (Brickman & Willoughby, 2017; Burns et al., 2017a; Mosher, 2017). The framework also expands the notion that sexual diversity includes sexual behaviors and identities (Burns et al., 2017b) and emphasizes exploring sexual desire as normative and creative (Williams et al., 2013). Moreover, sex-positivity as a theoretical framework acknowledges and embraces pleasure, freedom, and diversity (Williams et al., 2015a; 2015b). Burns and colleagues (2017b) note psychologists without sex-positive training “may inadvertently harm clients with diverse sexual expressions by failing to value their sexuality” (p. 505). In sum, sex-positivity is essential to providing ethical, culturally responsive care (Alexander, 2019).

Scholars have remarked that a sex-positive approach can help resolve social problems associated with sexuality, including sexual offending (Williams et al., 2013). Sex offense-specific treatment centers accountability and aims to reduce the likelihood of re-offense. How might a sex-positive framework be applied to sex offense treatment? The present conceptual article examined a sex-positive approach to sex offense treatment. A modified case study will be included, which inspired the present article.

Sex Offense Treatment

Historically, sex offense treatment operated from a purely punitive framework centered around accountability for harm caused by the person. However, aggressive and confrontational treatment approaches can increase resistance and reduce positive treatment outcomes (Fernandez, 2006). Scholars have argued that rehabilitation should be centered on a humanistic and human rights framework (Birgden, 2008; Birgden & Cucolo, 2011; Ward & Birgden, 2007). It has been posited that wellness should drive rehabilitation efforts, risk management, and victim safety (Ward & Fisher, 2006). Increased evidence supports programs that adhere to a risk-need-responsivity (RNR) approach (Hanson et al., 2009). According to this approach, the highest-intensity treatment should be offered to the highest-risk offenders (risk principle). Treatment should also target criminogenic need factors (needs principle), which involves addressing potentially changeable characteristics with a demonstrated relationship with recidivism. The responsivity principle is incorporated through offering treatment and risk management to maximize the likelihood that the individual benefits (i.e., a person’s abilities and motivation).

Ward and Birgden (2007) developed a model for rehabilitation, the Good Lives Model (GLM), that centers on well-being (i.e., personal security, basic needs, equality) and freedom (i.e., personal freedom, social recognition). Birgden and Cucolo (2011) note, “Treatment should balance risk management and offender autonomy and in doing so address approach goals that increase desirable outcomes (what the community wants from offenders as rights violators) and avoidance goals that decrease undesirable outcomes (what offenders want for themselves as rights holders)” (p. 307). GLM has been suggested as a framework for healthy human func-
tioning (Purvis et al., 2013) and aligns with sex-positivity. Eleven primary goods have been suggested, including 1) Life (healthy living), 2) Knowledge (being informed about matters important to self), 3) Excellence in Play (hobbies and having fun); 4) Excellence in Work (mastery experiences); 5) Agency (having independence and autonomy); 6) Inner Peace (freedom from stress and emotional turmoil); 7) Relatedness (intimate, romantic, and familial relationships); 8) Community (feeling of connection to a broader social group); 9) Spirituality (having meaning and purpose in life); 10) Pleasure (happiness, feeling good); and 11) Creativity (ability to express oneself through alternative means). According to the GLM framework, offending is viewed as a flawed attempt to achieve these primary goods (Ward et al., 2012). Avoidance and approach goals differ based on the client’s participation in treatment and motivation to evade behaviors versus motivation to achieve goals (Mann et al., 2004). An example of an avoidance goal could be “My goal is to avoid risky behaviors,” whereas an approach goal would be “I want to engage in healthy behaviors.” Our case study will discuss how psychologists may need to navigate adopting a rehabilitative, humanistic, and sex-positive approach to sex offense treatment while keeping with state practice and ethical guidelines. Harkins et al. (2012) found no differences in attrition, nor the treatment efficacy rates between individuals in a community-based sex offense treatment program among those provided GLM compared to those in RNR. Although some research has suggested that GLM adds little to the RNR (Andrews et al., 2011), it does offer a strength-based and humanistic approach to sex offense treatment.

Examining recidivism (i.e., re-offending or relapse) rates among individuals who sexually offend has been a traditional marker of treatment efficacy. Lussier et al. (2023) conducted a meta-analysis involving over 50,000 individuals with sexual offence and found that the mean of the pooled base rate of sexual recidivism was .14 (95% confidence interval = .13 to .15). For those who have been in treatment, in Gannon and colleagues’ (2019) meta-analyses of over 55,000 individuals, they found that treatment was associated with reductions in recidivism, both general and offense-specific recidivism. Although there is great variability in factors that contribute to an individual’s likelihood of recidivism, these data suggest the importance of treatment, particularly empirically informed treatment, in reducing the likelihood of re-offending.

Case Study

The case presented in this article occurred in the state of Colorado. In Colorado, the Sex Offender Management Board (SOMB) updates and standardizes the evaluation, treatment, and assessment of those who have committed sexually abusive behaviors. These standards are called the “SOMB Standards and Guidelines” and are updated regularly. Community safety is cited as the highest priority in treating those who have committed sexually abusive behaviors (Colorado SOMB, 2022). The SOMB cites sixteen total guiding principles for evaluating, treating, and managing those who have committed sexually abusive behaviors. Other guiding principles are focused on the safety and interests of victims, victims’ families, and potential victims; the fact that clients are capable of change; the fact that the risk level of an individual committing a new offense can increase or decrease; and that treatment, evaluation, and management should be guided by empirical evidence for best practices.

In Colorado sex offense treatment, progress is monitored and overseen by the Community Supervision Team (CST). The CST includes a client’s therapist, the treatment team (i.e., other group and individual therapists at an agency), the client’s parole or probation officer, others in supervisory roles (i.e., case managers, victim advocates), and the client. The goal of the CST is to ensure community safety and focus on rehabilitation of clients. The CST has access to client progress reports, polygraph results, assessment results, treatment goals and plans, and historical records (including arrest reports, court documents, and all other collateral documents that may be involved in the case). This level of oversight and access to very intimate details of the client’s sessions can lead to furthering the CST’s power differential over the client inherent in supervising forensic-involved clients.

Regarding further oversight and supervision of clients, Colorado routinely uses polygraph results to manage the behavior of individuals with sex offenses in the community, including to elicit disclosure about behaviors that may indicate an increased risk of sexual recidivism (Lin et al., 2022). In these polygraphs, a wide range of questions regarding sexual behaviors are typically asked, focusing on engaging in coercive, forced, and/or violent behaviors. The following case study raises the issues of whether some BDSM behaviors might be read as coercive or violent despite there being consent. To be a sex-positive clinician, it would be necessary to examine what behaviors the clinician would want the polygraph to capture, while also incorporating knowledge of BDSM/kink behaviors.

Brandon, a 42-year-old white male, has been attending mandated outpatient sex offense treatment for six years in Colorado. He was previously convicted of two counts of felony Contributing to the Delinquency of a Minor and served 10 years in prison for his offense. Brandon was 19 years old and attending college at the time of his offense. The victim was a 17-year-old girl who was also a first-year college student and an acquaintance of Brandon. Before this offense, he did not have a criminal record. In outpatient treatment, he accepted accountability for his offense and complied with all his risk management requirements, including drug screens and regular polygraph tests. His risk assessment and psychosexual evaluation, which included a Static-99R (i.e., the most used risk assessment tool for individuals in the United States, Canada, and Australia; Hanson et al., 2003), placed him in the moderate-low risk category. His static risk factors (i.e., historical risk factors, including those related to the index/current offense) were for his status offense, being young, having not lived with a partner for more than two years, for a total score of 3. Individuals with this risk score have been found to sexually recidivate at 4.6% to 9.6% after five years. Three years ago, Brandon entered a relationship with a woman with whom he is now cohabiting. As a condition of his therapy contract, he must disclose any intimate relationships to his therapist, disclose his sex offense history to his partner, and have a conjoint therapy session to verify the disclosure of his offense history. In treatment, individuals typically complete a sexual history packet where they must detail problematic or risky sexual behaviors they have engaged in for their sexual history polygraph to confirm what they have disclosed. Further, the packet also asks about any attitudes towards sex or sexual interests that may increase their risk for re-offense. Brandon and his partner appropriately complied with each of these conditions of treatment. In a group session focused on relapse prevention strategies, Brandon casually mentioned that he and his partner engaged in BDSM/kink, primarily consisting of consensual choking and bondage by rope. During a CST meeting, one of Brandon’s co-therapists remarked that they were uncomfortable with Brandon and his partner’s engagement in BDSM/kink and believed it could be a risk factor for re-offending. The therapist questioned if his engagement should be added to the polygraph screens, including specific issue polygraphs, which involve asking if he engaged in BDSM/kink behaviors. As previously noted, polygraph questions can be added to assess whether a person is honest about engaging in risky or problematic sexual behaviors.

Discussion

The client in this scenario holds two stigmatized identities: that of a “sex offender” and someone who has an interest in BDSM/kink. Treatment of sexually abusive behaviors can have a paternalistic outlook on the sexual lives of those in treatment. According to Birks (2021), paternalistic attitudes in forensic-involved treatment can look like “morally justified method[s] of punishing an offender for [their] wrongdoing” (p. 35). Specific paternalistic attitudes in these cases include the Community Supervision Team knowing
very intimate details about clients’ sex lives. Clinicians question clients about their masturbation habits, what they masturbate to, and the clients’ sex lives with their partners. Treatment teams must approve of new partners before any sexual activity takes place. This includes the potential partner attending an individual session with the client to ensure that they have been informed of the client’s sexual offending and ensuring the client has prosocial support. Due to these hurdles, some clients even give up searching for a partner, break up with their current partners, or even stop all sexual activities while in treatment. Discussing sexual activities does not stay in the room with the therapist. Due to the need for the Community Supervision Team to agree regarding the treatment and supervision of clients, questions regarding the sexual activities of clients (and, by extension, their partners) may end up on routine or special polygraphs (thereby, the polygraph examiner will be privy to this information), be discussed by the treatment team, and the parole or probation officer. This large group of individuals would be privy to intimate knowledge of the sexual activities of clients and their partners. With mandated treatment, therapists have a lot of power over clients regarding their behavior, including sexual behavior.

There continues to be a lot of shame, taboo, and stigma toward sex and sexuality despite it being a part of many people’s lives. Historically and presently, BDSM has been pathologized publicly and within research (Taylor & Ussher, 2001). Individuals who engage in BDSM have lost custody of their children, their jobs, and housing due to their sexual practices (Dunkley & Brotto, 2018). Kink-involved communities have largely been viewed as non-normative, and negative societal implications have been attributed to them (Blount et al., 2017; Kelsey et al., 2013). The DSM-5 made efforts to depathologize kink behaviors by emphasizing consent as the key differentiator between consensually enacted paraphilias and non-consensual paraphilic disorders (American Psychiatric Association, 2013; Pitagora, 2016). Kink-involvement is a relatively normative area of sexual expression and numerous studies have now documented that individuals who engage in BDSM are often psychologically and socially well-adjusted and not dissimilar to individuals who do not engage in BDSM (Connolly, 2006; Cross & Matheson, 2006; Richters et al., 2006; Weinberg, 2006). In fact, Lehmiller (2018) found that BDSM is one of the most common types of sexual fantasies. Further, participants have described BDSM as spiritual, transcendent, transformative, therapeutic, and healing (Lindemann, 2011; Sprott & Hadcock, 2018). We recommend that clinicians who engage in sex offense evaluation and treatment, training, or consultation for individuals who are involved in BDSM and kink culture to learn more about the practices and community.

The critical element in distinguishing BDSM from abuse or coercive sex is consent (Dunkley & Brotto, 2020; Taylor & Ussher, 2001; Weinberg, 2006). It is essential to examine the use of consent in kink communities. The kink community upholds communication, safety, and consent as values one must abide by before and after a BDSM encounter (Sprott & Hadcock, 2018). Williams and colleagues (2014) introduced the Caring, Communication, Consent, and Caution (4Cs) framework for BDSM negotiation and education. Additional frameworks include the Safe, Sane, Consensual (SSC) and the Risk Aware Consensual Kink (RACK) approach; however, the SSC framework has received notable critiques for the least consistent with the key differentiators. Further, what may seem “sane” to one person may not be “safe” (Simula, 2019). Within the kink community, any non-consensual acts would be considered assault (Dunkley & Brotto, 2018; Freeburg & McNaughton, 2017). Wright et al. (2022) note that “Alt-sex attitudes towards consent suggest that participation in alt-sex communities may act as a protective factor against sexual assault when compared to the general population” (p. 3). However, consent violations within kink communities can occur (Bowling et al., 2022a; 2022b; Dunkley & Brotto, 2020; Wright et al., 2022). According to a 2015 survey conducted by the National Coalition for Sexual Freedom (NCSF), nearly a third (29%) of participants reported that pre-negotiated limits and/or safe words had been violated (NCSF, 2015). In Wright et al.’s (2022) study of consent violations in alt-sex communities, 26% of their sample reported violations of their consent in an alt-sex context, and 24% reported nonconsensual touching in an alt-sex context. More than half (55.4%) of these experiences involved behaviors consistent with sexual assault. Clinicians must still have a case-by-case approach to evaluation and treatment. As noted previously, some individuals who engage in BDSM violate boundaries. Further, if aspects of Brandon’s consensual sexual activity align with the details of his offense, concerns regarding relapse are also warranted. Therefore, examining these factors with Brandon and his partner during their required joint treatment sessions would be important.

Therapist Dynamics

Considering the therapist’s characteristics and the therapist-client relationship in this case study is important. To incorporate a sex-positive framework into the clinical and counseling psychology fields, an analysis of the current state of graduate education and clinical and postgraduate training is warranted. It is possible that students’ knowledge of sex is not as comprehensive as many might assume. Only 26 states mandate sex education and HIV education, and only 18 states mandate that when such sex education is required, the program material must be medically accurate (Guttmacher Institute, 2022). Sexuality training in clinical and counseling psychology programs remains scarce. Many graduate psychology programs do not have a human sexuality course requirement (American Psychological Association, 2006; Burns et al., 2017b). Practitioners may harbor their own biases, myths, shame, and stereotypes about sexuality and normative sexual behaviors. Further, they might be uncomfortable discussing sex and using sexual language (Cruz et al., 2017). Thus, Brandon’s therapist may lack knowledge about BDSM and kink behaviors. Given the state of graduate education, therapists need to explore their potential reactions and biases. Post-graduate training or continuing education in sex-positivity may be warranted to fill gaps in the current graduate school curriculum (Miller & Byers, 2009), and consultation, perhaps with the Community Supervision Team, is warranted.

To no surprise, providing sex offense treatment is arduous work and can be taxing on clinicians. Clinicians must repeatedly hear the stories of sexual abuse perpetration from their clients and through review of clinical and legal records. Nearly half of therapists who provide sex offense treatment have reported clinically significant trauma symptoms because of vicarious traumatization from their work in treating individuals who have committed sexual offenses (Steed & Bicknell, 2001; Way et al., 2004). Additionally, studies have found anywhere from 9% to 75% of service providers have been victims of abuse, including sexual abuse (Ennis & Horne, 2003; Jeglic et al., 2022; Kadambi & Truscott, 2003; Moulden & Firestone, 2007; Way et al., 2004). Jeglic et al. (2022) described commonly reported experiences and reactions of those working with individuals who sexually offend. Clinicians reported re-experiencing distressing content from sessions, hypervigilance about the safety of themselves and their children, and having their work negatively affect their sexual lives. Participants also reported countertransference characteristics, albeit infrequent, such as being angry at their client, having retributive fantasies about their client, or experiencing arousal and attraction to their clients. Given these findings, we believe it is important for clinicians in sex offense treatment to have regular supervision and consultation to address these feelings as they arise, including countertransference. Community Supervision Teams should provide a space to discuss and address countertransference or potential countertransference. In the case study, Brandon’s therapist did not believe he should engage in BDSM and decided to add these behaviors to the polygraph if Brandon did engage in them.

Most psychotherapists have limited, stigmatizing, and inaccurate information concerning individuals who engage in BDSM, may be uncomfortable working with such clients, employ unhelp-
ful practices, or inappropriately pathologize their clients (Lawrence & Love-Crowell, 2007). Many psychology training programs do not provide much education on kink culture and alternative sexualities (Kelsey et al., 2013; Weitzman, 2006; Williams & Sprott, 2022). However, most clinicians in clinical practice will see a client from the kink/BDSM community at some point in their career. Kelsey et al. (2013) surveyed 766 psychotherapists and revealed that 76% reported having treated at least one client who engaged in BDSM, with an average of 6.7 clients reporting BDSM involvement. Sixty-four percent of their participants reported no training in working with BDSM individuals in graduate school.

Sex-positive psychologists should strive not further to exacerbate the myths and stereotypes regarding the kink community. According to Burnes et al. (2017b), a sex-positive psychologist “would be able to not only avoid exacerbating this distress by inadvertently reinforcing this cultural stigma but would also be able to help normalize such desires and help clients to explore their potential strengths” (p. 478). Kolmes and Weitzman (2010) note, “A therapist who is kink-aware recognizes BDSM-play as a normal part of the sexual spectrum and is able to distinguish healthy BDSM play from non-consensual abuse” (Kolmes & Weitzman, 2010, p. 2). Clinicians working with this population are encouraged to seek information describing BDSM practices (see Dunkley & Brotto, 2018). Pillai-Friedman and Castaldo (2015) discuss the notion of professionals addressing their biases or cultural counter-transference when working with kink-involved individuals. Given the therapist’s initial concerns, perhaps the therapist could have had discussions with the client’s engagement in kink during individual sessions or re-visit having another conjoint session with the client and their partner to discuss how they plan on navigating consent in their relationship and BDSM scenes.

Conclusion

Sex offense treatment balances and centers both accountability and public safety. Therapists must consider how to balance public safety by examining the power and control they may have over a client’s life in mandated treatment. A sex-positive framework can help guide how we balance this nuance. Further, it is important to examine ethical considerations in this case study. The American Psychological Association’s Ethical Principles of Psychologists and Code of Conduct (EPPCC, known as the Ethics Code) states that psychologists should work within their bounds of competence, relying on their training, education, supervised and professional experiences, and consultation (APA, 2017). In this case study, had the co-therapist who believed Brandon’s engagement in BDSM was a risk factor for future offending behaviors received education on kink culture at any point in their education or training/professional experiences, they may have seen Brandon’s behavior as within the realm of sexual normativity. They could have then focused on asking more culturally informed questions and had joint sessions with Brandon’s partner to help the couple continue navigating consent, communication, and safety within their BDSM scenes.

As treatment of sexually abusive behaviors already focuses on social skills, communication, and developing and respecting one’s own and other’s boundaries, these conversations would not only fit well within the treatment of sexually abusive behaviors but should be included in other holistic treatment goals.

Also of ethical importance is the general principle of the Ethics Code of Beneficence and Nonmaleficence. This principle focuses on the responsibility of the psychologist to cause no harm to their clients (APA, 2017). In forensic settings, it is important not to cause harm to a client, as treatment can result in legal consequences. In the case of Brandon, a therapist incorrectly viewing his relatively normative sexual desires as problematic and risky to any future offending could impact his case by creating polygraph questions that would be impossible for him to pass, the CST losing trust or faith in Brandon or his progress in treatment, or even resulting in additional time to his treatment or being placed in custody.

In treatment, such as mandated sexual offense treatment, where clinicians have power over clients, clinicians need to be culturally informed in normative sexuality practices so as not to harm their clients’ treatment (or legal standings). Future research should examine normative consensual behaviors, such as kink and BDSM, among individuals who have committed sexual offenses. Research on nonconsensual paraphilias has been prevalent in the field. Still, it is important to examine consensual kinky and non-kinky behaviors individuals may also engage in to inform evaluation and treatment better, and this can be done during most psychosexual evaluations.

The case study illustrates how it can be possible for an individual to maintain accountability for their illegal sexual behaviors while living a life where they can engage in consensual and healthy sexual behaviors, such as BDSM and kink. Williams et al. (2013) note, “A sex-positive perspective does not condone sexual abuse or violence, nor does it minimize the harm of sexual offending. However, because sex-positivity encourages discussion and critical exploration of sexuality and sexual practices, it can help address myths and moral panics concerning sexual offending issues” (p. 3). In fact, this sexual behavior might strengthen clients’ understanding of consent in a sexual relationship, which is also a goal of treatment. As noted earlier, one of the Colorado SOMB guiding principles is that clients are capable of change; therefore, clients may be able to engage in healthy, consensual sexual behaviors. In sum, we hope this case study emphasizes the need for an individualized approach to sex offense treatment that incorporates sex-positive and humanistic frameworks.

References


KINK, BDSM, AND SEX OFFENSE TREATMENT


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