

NOTEBOOK ON ETHICS, LEGAL ISSUES, AND STANDARDS IN COUNSELLING

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Dealing with Requests for Information

Counsellors are frequently confronted with requests for information about their clients. These requests may be of an informal nature, expressed by telephone, letter, and sometimes through e-mail.

Other requests can be more formal, such as a legal request for information known as a subpoena. To this issue of COGNICA I have a few notes on dealing with those informal requests (look for the next issue for notes on responding to subpoenas)

The following vignettes illustrate a variety of ways by which informal requests can be made and their potential for inadvertently violating counsellor-client confidentiality.

Vignette I

Barbara is a secretary for a private practice with four full time counsellors, one of whom is clinical director. She receives the following telephone request.

Caller, "I am Albert Newell and I know that my wife, Shirley is going to your centre for counselling and would like to speak with whoever she is seeing there".

Barbara, "Mrs. Newell is being seen by Miss Kennedy. Miss Kennedy is not available now but I can have her call you".

Vignette II

A counsellor, working alone in a part-time private practice, has been seeing a 23 year old female client. On her first visit she was accompanied by her father, although the father did not participate in the counselling session. The client has attended two sessions and the counsellor subsequently receives the following telephone call.

Caller, 'Hello, I am Mark Grossman, Simone Grossman's father. You might remember that I came and waited for her on her first visit.'

Counsellor, 'Hello, Mr. Grossman, yes I do remember your visit was very supportive of Simone. What can I do for you?'

Caller, 'Well I would like to come in to speak with you about Simone'
Counsellor, 'Okay, Mr. Grossman, would Friday at 2 pm be okay for you?'

Vignette III

An addictions counsellor receives a letter from Ms. Breton, a local lawyer. In the letter, Ms. Breton identifies Mr. Crane as one of the counsellor's clients and later in the letter she makes the following request. "I am presently preparing a legal claim on behalf of Mr. Crane and he has given me permission to speak to you. We both believe that you may have information which can help with this claim. Please phone my office so that we can find a mutually satisfactory time to meet".

The counsellor phones Ms. Breton's office, and as requested and arranges an appointment.

What do these three vignettes have in common? In my opinion, the secretary and both counsellors have acted inappropriately. The secretary has made an inappropriate disclosure and each of the counsellors has acted without the benefit of client informed consent.

In Vignette I Barbara has confirmed that Mrs. Newell is a client at the clinic and has also named her counsellor. The caller is not entitled to any of this information, even if he is the client's husband. In any case, a telephone call cannot reliably confirm the caller's identity.

An appropriate response by the secretary would be something like, "I am sorry but I am not at liberty to provide information about any client. In fact, we don't disclose who our clients are or provide any information unless we have their permission to do so. You may speak to Ms. Kennedy, our Clinic Director if you wish".

An appropriate alternative would be for the secretary to refer all such calls to the Director or another counsellor who could make a similar response to such requests.

Vignette II In this circumstance, the counsellor will need Simone's informed consent before agreeing to meet with her father. So a response something like "I am sorry Mr. Grossman but since Simone is an adult, I will need her permission to meet with you. Even then, I would prefer to see both of you together".

Let's suppose that Mr. Grossman responds with "Oh, I understand but I do have her permission to speak with you". This would still not fulfill the conditions for informed consent. It would be appropriate to reply with something like 'It is not that I don't believe you Mr. Grossman, but it is my obligation to get permission directly, so I will need to hear from Simone. Maybe she and I can discuss your request when she comes for her next visit unless you can come together then".

Vignette III Even though this request arrives with more apparent formality, it too, must meet the conditions of informed consent. There is no completed informed consent form accompanying the letter. Even if there was such a form with the letter it would not be appropriate to discuss the request with the client before formulating a reply.

In summary, such requests from lawyers should be treated like any other informal request that may impact on a client's confidentiality. Without the client's consent, it would be inappropriate to confirm to the lawyer that Mr. Crane is, in fact, your client.

[I welcome critical comment on any of the vignettes or opinions expressed in these notes.]