

About the Limits of Confidentiality and Its Limitations on Helping*

Confidentiality is an ethical concern. The fundamental intent is to protect a client's right to privacy by ensuring that matters disclosed to a professional not be relayed to others without the informed consent of the client. In discussing confidentiality, therapists also hope to encourage communication.

Neither privacy nor confidentiality, however, are absolute rights, especially in the case of minors. There are fundamental exceptions, some involving ethical considerations and some involving legalities.

Privileged communication is a legal concept. It addresses legal rights protecting clients from having their disclosures to certain professionals revealed during legal proceedings without their informed consent. For example, 20 states fully or partly protect communications between school counselors and their pupil clients (Sheeley & Herlihy, 1987). Legal determinations regarding who is the client (e.g., whether minors or their parents hold the "privilege") and limitations on clients' rights to privileged communication are the bases for legal exceptions to maintaining confidentiality.

There are times when professionals would prefer to maintain confidences but cannot do so legally or ethically. Examples include instances when clients indicate an intention to harm themselves or someone else and when they have been abused. As a result of legislation, litigation, and ethical deliberations, professional guidelines call on interveners to breach the confidence and tell appropriate public authorities when there is a "clear danger to the person or to others" (American Psychological Association, 1981, p.636). In this vein, but perhaps going a step further, the ethical guidelines for school counselors call for reporting instances when information provided by clients indicates circumstances likely to have a negative effect on others; that is, without revealing the identity of the client, the counselor is expected to report such circumstances "to the appropriate responsible authority" (American Association for Counseling and Development, 1981, p. 4). However, it is left to individual counselors to decide which circumstances are "likely" and what constitutes a "negative effect" that is serious enough to require reporting.

In order to adequately inform minors of exceptions to the promise of privacy, therapists must add a statement about exceptions, such as this:

Although most of what we talk about is private, there are three kinds of problems you might tell me about that we would have to talk about with other people. If I find out that someone has been seriously hurting or abusing you, I would have to tell the police about it. If you tell me you have made plan to seriously hurt yourself, I would have to let your parents know. If you tell me you have made a plan to seriously hurt someone else, I would have to warn that person. I would not be able to keep these problems just between you and me because the law says I can't. Do you understand that it's OK to talk about most things here but that these are three things we must talk about with other people?

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Because youngsters may feel , a bit overwhelmed about the exceptions to privacy and the serious problems described, they may simply nod their acquiescence or indicate that they are unsure about how to respond. To soften the impact, therapists may add statements, such as this:

Fortunately, most of what we talk over is private. If you want to talk about any of the three problems that must be shared with others, we'll also talk about the best way for us to talk about the problem with others. I want to be sure I'm doing the best I can to help you.

States vary in the degree to which their laws specify limitations on privileged communication between counseling professionals and minor clients. Some protect only disclosures about problems related to alcohol and other drugs. Others give broad protection, specifying a few exceptions such as reporting child abuse and crime or potential criminal activity. As far as professional psychology is concerned, however, the bottom line is that , "a gradual and continuous weakening has occurred in the confidentiality privilege" (Everstine et al., 1980, p.836).

Undoubtedly, breaking confidentiality in any case can interfere with the trust between client and professional and make it difficult to help the client. Prevailing standards, however, stress that this concern is outweighed by the responsibility of the intervener to prevent various threats. In particular, matters such as suicide and assault on others (including physical and sexual abuse), which initially were defined as legal exceptions to privileged communications, have become established limits on confidentiality. As a result, the ethical task of informing prospective clients about all the exceptions and limits related to confidentiality has made the processes of ensuring privacy and building trust almost paradoxical.

Existing limits on confidentiality clearly reflect circumstances in which the society sees its interests as paramount and requires counselors to disclose, what they learn even though the interveners believe it may hinder their efforts to help the client. The issues related to such limits are complex, controversial, and beyond the scope of this article. For our purposes, we can simply acknowledge that society always is likely to impose some limitations on privileged communication and that counselors always will find such limits troublesome.

Confidentiality as a Limitation on Helping

Concerns about protecting a client's right to privacy and exceptions to this right have been discussed thoroughly in the literature. Less attention has been paid to the fact that there are times when keeping information confidential can seriously hamper an intervener's efforts to help a client. The complexity of the ethical issues need not concern us here. We can simply take it as axiomatic that there will be times when interveners find it in the best interest of a minor client for others to know something that he or she has disclosed.

In its ethical guidelines on confidentiality, the American Psychological Association recognizes that there are instances when information obtained in clinical or counseling relationships should be shared with others. In doing so, the guidelines stress that such sharing should occur "only with persons clearly concerned with the case" (APA, 1981, p. 636). Given that teachers and parents are

clearly connected and see themselves as also working in a minor's best interests, some interveners feel it appropriate-even essential-to discuss information with them. In other words, there are times when an intervener sees keeping a specific confidence shared by a minor client as working against the youngster's best interests and will evaluate the costs of not communicating the information to others as outweighing the potential benefits of maintaining the minor's privacy.

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