Confidentiality and Child Abuse

In Louisiana, as in all other states, there is legislation regarding confidentiality for the ethical practice of psychotherapy. Legal codes and ethical standards frequently conflict when clinicians must breach confidentiality to comply with the legal mandate to report child abuse. Practitioners must try to strike a balance among the best interests of their clients, their own ethical responsibilities to honor confidences, their legal reporting obligations, and their wish to minimize professional and legal liability.

Ambivalence in this area is reflected by studies indicating the failure of a substantial number of practitioners to report child abuse (Swaboda, Elwork, Sales, & Levine, 1978). Factors that contribute to an unwillingness to report include:

- The practitioners’ past reporting behavior (Kalichman & Craig, 1991)
- The certainty and evidence of abuse (Kalichman & Brosig, 1993)
- Client characteristics (Kalichman & Craig, 1991; Newberger, 1983)
- Type and severity of abuse (Kalichman, Craig & Follingstad, 1989; Nightingale & Walker, 1986)
- Wording of reporting requirements (Brosig & Kalichman, 1992)

Most ethical guidelines strongly advocate informing clients that there are legal limits to confidentiality of therapist-client communications. Recent studies have indicated that informed consent forms used by practitioners often do not contain information specific to confidentiality limits (Handelsman, Kemper, Kesson-Craig, McLain & Johnsrud, 1986). Baird and Rupert (1987) found that only half of psychologists informed clients of confidentiality limits during the first therapy session. Another study, however, (Otto, Ogloff & Small, 1991) found that more than 90% of clinicians addressed confidentiality with their clients.

Informed consent mandates insist that clients must know about confidentiality limits since those limits may affect clients’ decisions about what they will and will not disclose. Taube and Elwork (1990) found that those individuals who were made aware of limits to confidentiality did not disclose as many child punishment and neglect behaviors as did individuals who were not informed of such limits.

In one study, (Nicolai, 1994), almost 20% of respondents indicated that they sometimes, rarely, or never provide this information to clients and that more than 5% misleadingly tell clients that everything disclosed in therapy is confidential. About 1/5 of respondents provide confidentiality information after the first session, most typically when they become aware of client issues that may necessitate breaching confidentiality. Just over half of clinician who indicated that they would abide by mandatory reporting requirements and report abuse also indicated that they were often uncomfortable with the decision. Failure to report did not appear to be a result of clinicians’ lack of confidence that abuse was occurring. Of those who would not report, virtually all indicated that they were confident that abuse was possible. Psychodynamic therapists reported less frequently than behavioral, cognitive/rational emotive, and eclectic therapists.


