

Chapter 3

Clients

Introduction

1. Intervention and self-determination
 - a. A difficulty with understanding the client
 - b. When self-determination is possible
 - c. Problems with these criteria
 - d. Choosing harm
 - e. Impaired self-determination
2. Conflicts with self-determination
3. Relations with clients
 - a. Dual relationships
 - b. Further kinds of dual relationships
 - c. Conflicts of interest
 - d. The obligation to serve a client competently
 - e. Reciprocity and obligations in a professional relationship
 - f. Drawing boundaries
 - g. Virtues
 - h. 'Recalcitrant' clients

4. Who is the client?

Introduction

- a. Choosing one's client**
- b. No choice**
- c. The family as client**
- d. Diversity among clients**

Questions

4. Who is the client?

The first step in our method requires that we

- (1) Try to understand why the participants are doing what they are doing by constructing arguments that would justify their acts or omissions.

We have been using this step as though it were straight-forward what roles the various participants have in the case -- who the client is, who the social worker is, and so on. But, in fact, it can be difficult in some cases to determine who is in what role, and ethical issues turn on making those determinations. We shall consider here the sorts of problems that can arise in identifying who the client is.

a. Choosing one's client

That problem runs through many of the cases we have considered so far. In Dancing the legal dance, for example, Mary had all four members of the family as her clients, but she was concerned to protect the young girls and was being pressed by co-workers to get the father to confess to sexual abuse. Because her clients had competing interests, they should have had different social workers, but Mary never realized she had an ethical problem about who her client was. That problem is harder to miss in the following case:

3.11 Co-dependents

In an alcoholic's family, the spouse and children often need therapy as well. The need is severe enough that without treatment for the other members of the family, the alcoholic is unlikely to cease using alcohol because the family members are unable to give support for the new forms of behavior necessary to remain off alcohol and, by their habitual practices, reinforce the alcoholic behavior.

But Rosemary cannot bill the company paying for treatment for treating anyone but the person who is abusing. 'So sometimes,' Rosemary says, 'we put down "family session" for the substance abuser when the focus was really on treating another family member. Other times we do not charge and see other family members for free.'

Treating all the members of a family may not seem to raise any ethical problem about who the client is because no obvious conflict may seem to exist. Treating the alcoholic, Rosemary claims, requires treating members of the family, and presumably treating them means that she is helping the client as well. So the choice Rosemary faces -- treat the alcoholic or treat the family of the alcoholic and the alcoholic -- may seem only a strategic choice of treatment, and not an ethical choice, because no obvious harm is done no matter which choice is made. But, in fact, making that choice requires making a series of ethical judgments. We can see this by applying the third step in our method:

(3) Determine what the harms are of various courses of action: to whom would they occur, what kinds are they, and what are their magnitudes?

So what are the harms?

First, the choice raises an issue of justice because unless there was much free time and not enough demand for services, every family member seen free may take the place of an alcoholic who could have been seen and needed help. Rosemary decided to serve some alcoholics by seeing them individually as well as with their families rather than to serve more alcoholics individually in what she judged to be a less effective way. So her choice means that some who need help will get no help at all when they would have gotten some help otherwise. She may have made the correct ethical choice, but it is a choice that needs ethical justification because it causes harm to some.

Second, she has no money to pay for treating the family members, and so there is an issue about how to bill the companies paying for treatment. Are they fairly billed when they have agreed to pay for treating a substance abuser but are sometimes billed for treating other members of the family as well? There are two different ethical issues here because Rosemary is not only billing the companies for treatment they have not agreed to pay, but

also putting down false information on the billing form so that they are deceived into thinking they are paying for what they agreed to pay.

Third, the focus of concern of the therapy is different given the different choices. If Rosemary were to treat only the alcoholic, the focus of her concern would be the alcoholic -- the alcoholic's behavior, beliefs, and role in relations with others. But if the alcoholic is treated as part of a family, Rosemary will focus on how the alcoholic and the other members of the family interact. The concern will be to change the behavior of all, with the focus on changing the behavior of the family members so they do not continue to enable the alcoholic in the behavior that produces alcoholism. But changing the focus of concern raises an ethical issue. It was itself produced in part by an ethical commitment to the client. Treating only the alcoholic was thought to be harmful to the alcoholic because, by not treating the family, the therapist is unable to change the behaviors of those who enabled an alcoholic to remain an alcoholic even after treatment. But treating the family means that the alcoholic may receive less concentrated treatment than needed given the limited time that can be spent on any treatment. Choosing between treating the alcoholic alone and treating the alcoholic as a member of an enabling family is not an ethically neutral choice, that is, whichever is the right choice to make.

Either choice Rosemary makes may harm someone -- those not being treated, those who pay for treatment, or the alcoholic or the alcoholic's family. In short, choosing who is the client can be an ethical issue, and we must do whatever we ought to do when faced with an ethical choice. We must track the harms and choose that alternative which causes the minimal amount of harm, if we can determine what that is.

b. No choice

But often an ethical problem with determining clients does not present itself as a choice. Consider this case where Tamara finds herself with a problem about who her client is:

3.12 Automatic assignments

In one agency, social workers are assigned cases in the order in which they arrive. 'If it is Monday, and I'm at the top of the list, I get the first case,' Tamara said, and so she was assigned a case in which she was to do individual therapy for five children plus family therapy for the father and for the mother. The case was complicated by the various relations between the different members of the family, with some of the children having different fathers and some different mothers.

One day somewhat later Tamara was assigned another case -- two young girls who had allegedly been sexually abused by their father, Marvin, who was no longer living with them, but was visiting them and seeking custody. She became close to the children, and especially to one child, and continued to see them for over six months.

She then discovered that the boyfriend of the mother in the first family was Marvin, the father of the two girls in the second. She was concerned about sexual abuse in the new family setting and so told the woman there to be careful with her children around Marvin. She didn't tell the woman why, but the woman must have told Marvin that she was to be careful with him around the children and he was upset.

Tamara was asked to write a report for Friend of the Court, which was considering custody, and she wrote about the reports of sexual abuse that the two girls gave her. Friend of the Court put her name and position on the report, and since Marvin was acting as his own lawyer, he read it, put two and two together, and came into her office, angry and upset.

Tamara felt she had to choose between the two families, and she stopped seeing the little girls from the second family. She tried to have the one girl see another therapist, but the girl refused and stopped coming to the clinic. She apparently felt rejected, and though Tamara tried to explain to her that she was not being rejected, Tamara could not give the complete explanation.

Tamara's relation with the first family was changed because of what Tamara came to know about Marvin from her relation with his two girls. She had access to information she would not have had but for the assignment of cases that gave her two that overlapped. Having this information created two ethical problems for her. That is, though she had no choice in coming to this information, having the information has created a set of choices for her where she can readily cause or permit great harm.

First, she had to determine whether it is ethically permissible, or even obligatory, for her to use the information she had about Marvin to protect the children of the first family. Tamara decided that rather than give the girlfriend the information, she would tell the woman to be careful with the children around Marvin. Telling the woman to be careful around Marvin seems to have been a compromise to help protect the children without breaching confidentiality. But it was a compromise that denied the woman full information, thus preventing her from acting with full self-determination.

To put as positive a face as we can on what Tamara did, she chose a course of action to provide as much protection and self-determination as she could consistent with protecting confidentiality. But to put as negative a face as we can on what she did, she pointed a finger at Marvin, without explaining why, and left the children at risk by not telling the woman why she had to be careful with the children around Marvin. Why should the woman take Tamara's remarks seriously without any reasons for such taking care?

Second, having the information alters Tamara's relation with the original family. She knows the children are at risk. Having the information also alters her relation with the second family. She does not make clear why she felt she had to choose between the two sets of clients, the original family and the new one, but she may think that if she were to pursue the case of sexual abuse raised in the new family, she would find herself at odds with Marvin and would not be able to work well with the first family.

This case seems to present a painful choice for Tamara. She felt she could not give therapy to a child who really needed it and yet continue to maintain her contacts with the original family. It is an essential part of the third step of our method that we brainstorm alternative courses of action.

(3) Determine what the harms are of various courses of action: to whom would they occur, what kinds are they, and what are their magnitudes?

What could Tamara do, and what are the harms of these various courses of action? To determine whether she made the right choice, we need to consider her choices and weigh them ethically -- considering, as the second step in our model tells us, what her goals ought to be and then laying out her options, determining how well they achieve those goals and what harms result to those involved. Tamara seems to have thought she had two options --

though in fact there are at least three.

(a) She could continue to see the first family and drop contact with the second. This is the choice she made, and one reason for it is that though Marvin's children were as much at risk as the children in the first family, the mother there knew about the charges and so could herself act to protect the children. If a new social worker were assigned to that case, he or she would find out about the charges. The mother in the first family did not find out about the charges, and it is not clear whether a social worker assigned to the case would be able to find out about them. That would depend upon whether the information about the court case was public and upon whether, if it was, it was somehow brought to the new social worker's attention. So it is reasonable to think that Tamara was more needed with the first family than the second.

One problem with this decision is that Tamara has already had a confrontation with the mother's boyfriend, Marvin. The likelihood of her working well with the family is much diminished because of what she knows about Marvin and what Marvin knows about what she knows. So she may not be an effective therapist there especially because, although she can warn the mother to be careful of the children around Marvin, she cannot tell the mother how she knows Marvin is an object of concern -- unless the court case becomes a matter of public record. Then she would have to decide whether to bring that to the attention of the mother.

An additional problem with this decision is that she was assigned to do both individual therapy with five children and family therapy with the mother and father. So choosing to work with the first family is not itself a simple matter. It may not be easy to look after the interests of the children while providing family therapy to the mother and father knowing that the mother's boyfriend may be putting the children at risk. If Tamara's reason for choosing the first family is to protect the children, she has not simply made a choice between helping the children there and the children in the second family, but also between helping the children there and providing family therapy. The interests of the children may conflict with those of the mother and the father.

On the other hand, if she turned the original family over to another therapist, it is not obvious that she could tell that person the information she accidentally came to know. Maintaining the confidentiality of the information she had is a value she needs to consider in deciding what to do. A new therapist would not be in a position to protect the children if Tamara did not say anything and if the information about the court proceedings were not public and somehow part of the social work case involving Marvin.

(b) The second option would be to drop contact with the first family and continue to see the second. The children's interests in the second family would be better served by her continuing therapy with them. Because one of the girls had become quite attached to her, as Tamara makes clear, cutting the tie means a loss. The girl felt rejected and stopped coming for therapy. But, as we have seen, dropping contact with the first family means putting the girls there at risk, at least in the short term, or perhaps means breaking confidentiality to inform a new therapist of the problem.

(c) Choosing either option risks harm to the children involved, and so that raises the issue whether she could not do something that would allow her to continue to see both families or, at least, the original family and the girls in the second family. She could give the girls in the second family therapy and look out for the girls in the first family without breaking confidentiality. This choice has all the problems of the first choice, including the problem of working with Marvin, but there is no reason to think anyone else would be better able to work with Marvin if they know of the abuse. Besides, it is difficult to see how not working with the girls of the second family would allow Tamara to work better with Marvin in regard

to the first family.

So why did Tamara feel she had to choose between the two families? She may have thought that the children in the second family would 'take' to a new therapist after awhile. She may also have thought that while her knowing about Marvin, but not being able to tell the mother, created problems for her, she was best able to handle those problems. She was wrong about one of the children, and her being wrong changes the whole equation. Given the goal of helping the children, laying out Tamara's options and tracking the alternative harms makes it clear that if we add in the harm to the child of being deprived of therapy, it is better for both sets of children that she continue working on both cases.

c. The family as client

In this next case, as in many of the cases we have examined so far, the social workers find themselves with identifiable individual clients. But the case with which we began this section, 3.11 Co-dependents, raised the issue whether the social worker's client ought to be the family rather than, in that case, the alcoholic within the family, and the following case presents this issue even more dramatically:

3.13 Caring for the family

A mother of low intelligence loves her three children, does well for them with what she has got ('dresses the girls beautifully, irons their clothes'), and keeps in constant touch with the school and social workers. There has been a history of sexual abuse, the father first abusing the two girls when they were in the first and third grades and then a boyfriend abusing them. So Carrie, the social worker assigned to the family, allows the mother to stay with the children provided that certain rules are followed which, it is hoped, will protect them from child abuse.

As it stands now, the family is entrenched in the social services system. 'If we were not here for her, the family would not stay intact,' Carrie says. The system cannot afford the time and resources to make that family a continual object of concern. So the family is likely to disintegrate, and, by law, the children must then be placed in foster care. When that happens, the mother will fall apart, Carrie thinks, and the children will be separated since no foster home is likely to take three children. The children will certainly be worse off in terms of losing a mother who truly loves them and in no longer being members of a family.

The family is so fragile that it is dependent upon the social services system. 'What is needed,' Carrie says, 'is a foster home for the entire family.' But that is not presently an option. The only option is to continue to treat the family until it is decided that too much has been spent on it and each of the children is then put into foster homes.

Who is the client here -- the mother? The children? The family? All the evidence would suggest that the family -- the mother and her three children -- ought to be the client. As Carrie puts it, paradoxically, the family needs foster care. But the current system cannot treat the family as a unit to be put, as it were, in a foster home. Or, put another way, the system forces certain categories of clients onto social workers even if using those categories causes more harm than using other categories. If social workers have families as their clients, it is either because the families can be kept intact with minimal resources or because short-term intervention, even with intensive resources, is likely to solve whatever the problem is. They

cannot have as their clients entire families which are to be kept intact by providing continual resources. After all, caring for a family for the rest of its life is an enormous drain on the resources of any social services system. So when a social worker gets a family like this, the pressure is enormous to split the family into individual clients, the mother and the three children, and to treat them individually.

From Carrie's point of view, the current categories are counterproductive. They ensure that families which cannot remain intact without much supervision and many resources will not be saved. This case squarely raises the issue of whether the institutional setting is itself at fault. It forces us to distinguish between ethical issues that arise about individual actions within an existing institutional setting and ethical issues that arise about the setting itself. For what seems needed is some change in the system if Carrie is to have a good option, for the system precludes her choosing the best solution and makes it unlikely that she will be able to keep the family together.

In *Dancing the legal dance*, Mary found herself facing a problem because the judge said that the children were legally not abused, and it is certainly not obvious that a legal system that permits that sort of judgment is a fair one. Mary's problems arise in part because of the judgment, and Mary may have a moral obligation as a social worker to try to change the system that creates such difficulties for her.

It is arguable that in *Adoptive children*, Dena had the same obligation about the state law she thought unfair to natural parents and adoptive children. It is the perceived unfairness of the law that she thinks justifies her giving information illegally to those seeking it, and so it is the setting itself that causes the ethical dilemma she faces.

Similarly, this case raises an issue about the policy our society has of either choosing to keep families together, if it does not cost much, or breaking them apart to save the children -- the policy, that is, of not spending enough to do what is needed to keep families intact. Carrie faces a problem that arises within the framework of that policy, and it is that policy which forces her to choose between trying to hold the family together, without adequate resources, or pulling it apart by putting the children in foster care. So it is arguable that she has an ethical obligation to change the existing policy. That does not help her in the present case, because existing policy is not going to change in time to ease the difficulty she has with that family, but it indicates how a social worker's responsibilities can go beyond individual cases.

d. Client diversity

Finding oneself unable to refuse a potential client without causing great harm is a common sort of problem. Consider the following case where this common problem is complicated by another:

3.14 Self-identity

Joanna had a client, Vicky, who was having difficulties with the consequences of her divorce. Joanna was black, Vicky was white, and Vicky's spouse had been black. In the course of Joanna's work with Vicky, Vicky brought in her oldest son, Tommy, who was six and having trouble in school primarily, the school thought, because his parents were going through a divorce. But when Joanna talked with him, she found out that he was upset because the school had called him black.

Tommy was staying with his mother, who identified Tommy and the other two

children as white. When Joanna spoke with her, Vicky said she thought 'her children would have a very hard time if they were identified as being black.' She said she had told them that if you mix vanilla and chocolate, you get a combination, but 'not black,' something 'closer to white.'

But the children cannot pass for white. 'They do not even have the features to pass for white,' Joanna told her. 'Society is always going to see them as black, and the children need to feel good about that. You can't say he's brown. You can't say he's mulatto. You can't use those terms. You have to say he is a beautiful black child and you accept him. You have to validate that for the child.'

Vicky said she couldn't tell him that, that it would mean giving up her son. So Joanna was concerned that Vicky would stop coming in for therapy and particularly concerned that she would not talk to Tommy and tell him what Joanna thought he needed to hear. The situation was complicated by Tommy's fear that his mother would be upset with him -- for not being white, Joanna surmised.

But Joanna persuaded the mother to go in and talk with Tommy and tell him that he is black, that she loves him, and that it is good to be black. The mother didn't believe any of that, but she did it. Afterwards, Tommy said, 'I knew I was black all along.'

If we consider the third step of our method and consider the potential harms the case raises, we will find at least four different problems:

(a) Joanna feared Vicky would think it was only because Joanna was black that she wanted Vicky's son to think of himself as black. Joanna thought Vicky would think that she was imposing her own values on Vicky and Tommy. She was afraid Vicky would not think her objective so that she would be ineffective as a social worker.

(b) We have carefully retained the words used by those in the case, 'black' and 'white,' because one difficulty the case presents concerns the categorization of persons in terms of color and/or race. We did not want to beg the issues by using the categories of 'Black' and 'Caucasian' as though these were clear and unproblematic. This is not a single difficulty, but a nest of them.

Until very recently in the United States, 'biracial' had no official meaning. Officially, Tommy was either black or white. In other societies, and in the United States now, a person can be biracial. When this case occurred, the law made Tommy either black or white, and, in any event, one issue the case raises concerns the categories that society imposes upon individuals and the social consequences of being of one category rather than another. Those of mixed ancestry must decide whether to accept or reject the categories society imposes. Rejecting them is difficult for anyone, let alone a six-year-old, and we may see Vicky's explanation to her children -- 'a combination' -- as an attempt to resist society's categories. We may also see Joanna's insistence that Tommy is black as acquiescence in those categories or as a realistic appraisal, given Tommy's physical appearance, of how he is going to be judged.

There is also a problem regarding self-identity. Our sense of ourselves is tied up to the way others perceive us and so relate to us. It is difficult to change those perceptions and difficult to act in ways that are contrary to the way others expect us to act and so act towards us. Others will tend to take us to be acting in certain ways because of their perception of us, despite our attempts to act in different ways. If Tommy is treated as a black person by others in society, it will be difficult for him to resist seeing himself as black -- no matter how hard he may try.

There is an ethical issue here. People's sense of who they are is arguably the most

important ethical aspect of their lives. Everything people do and can do hinges on their conception of themselves. Yet if that conception depends upon the beliefs of others and those beliefs are false, people's sense of who they are will be affected.

Put another way, if one of the highest values in any social system is the capacity of those within it to dream for themselves what kind of life they wish to lead and choose to pursue that dream or not, that capacity will be affected by a person's understanding of what it is possible for them to dream and what it is possible for them to realize. The plans you have for your life may be limited by someone else's perception of who you are, and your chances of putting your life plan into effect may be thwarted by someone else's perceptions of what you are capable of achieving. So Tommy's being perceived as black is not just a factual matter -- a matter of how he looks -- but an ethical matter, a matter in this society of what his prospects are.

Tommy's mother was correct in her understanding of how different his prospects would be if he were perceived as black. But if he looks black, pretending that he is not will not help him. In a racist society, being the wrong race will diminish our life prospects no matter how we try to protect ourselves.

(c) Vicky stated that she thought her son would be better off as a white person. She thought she was acting in the best interests of her family. Joanna did not change Vicky's mind, but somehow got her to talk to her son. So there is an issue of self-determination here. What are the proper limits for a social worker in persuading others to act in ways they do not choose to act? Joanna might be thought too pushy. Some might think she has no right to intervene in the way she did to get Vicky to tell her son he was black.

(d) Who is the client? Joanna's initial client was the mother, Vicky, who was having troubles because of her divorce. When Vicky brought Tommy in, Joanna could have refused to see him, and so refused him as a client. When she did not, he became her client, but he would have been affected in any event. For in trying to help Vicky, Joanna would have had to deal with what Vicky told Tommy and so would have had to concern herself with what was best for Tommy as well as Vicky.

From Joanna's perspective, the two had competing interests because Vicky wanted Tommy to think of himself as white whereas Joanna thought he would be better thinking of himself as black. The conflict between these two sets of interests was such that Joanna thought she might lose Vicky as a client, and thus lose Tommy as a client too, if she pushed Vicky to tell Tommy he was black.

If we now brainstorm and consider her options, as the third step in our method tells us to do, we find that she had three: (i) back off from confronting Vicky about her son's problems, and so not help the son; (ii) confront the mother about her son's problem and so risk losing both the mother and the son as clients and not resolving the difficulty; or (iii) talk to the son herself and so risk alienating Vicky and losing her, and perhaps her son, as clients.

What are the harms attached to each of these options? Choosing (i) would mean not helping the boy. That is a harm. Choosing (iii) would mean not helping Vicky come to grips with the problem. That is a harm. It is also less likely to be effective to tell the son and not have the mother's support. He would then be getting mixed messages, being told on the one hand that he is black and on the other hand that he is white. (ii) is the only choice that does not in itself cause harm -- if we assume, and it is a big assumption, that it would be better for Tommy not to be told he is biracial.

Yet Joanna risks losing Vicky as a client and thus risks losing contact with Tommy if she chooses (ii). If, however, she confronts Vicky and Vicky is unwilling to tell her son, Joanna will at least have explained the problem to Vicky, and she still has the options both of

telling or not telling the boy and of urging that he get counselling from another social worker. In addition, choosing (ii) is to treat Vicky with respect. It is to presume that Vicky is mature enough to come to grips with the problem, however emotionally upsetting it may be for her, and to resolve it in Tommy's best interests.