

## Chapter 3

### Clients

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#### Questions

In explaining the value of the dignity and worth of the person, the Code of Ethics says that 'social workers promote clients' socially responsible self-determination,' and later, in laying out social workers' ethical responsibilities to clients, it says,

Social workers respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals (1.02).

Unfortunately, the intervention necessary to promote clients's self-determination can itself raise ethical issues as well as compete with other social work values. We saw a sample of this sort of problem when John denied Al's self-determination in *Doing what the judge orders*. We shall consider these issues more thoroughly in Sections 1 and 2 respectively.

In Section 3 we shall consider some other ethical issues regarding the relations between social work practitioners and clients and then, in Section 4, the question of who the client is, an issue that arose in *Dancing the legal dance* where Mary chose to concentrate

her energies on protecting the children when she had been hired to help the children and each of the parents.

The discussion presupposes knowledge of our method of tracking harms, and you should read the Introduction and §§1-2 of Chapter 1 if you have not already done so (pp. 1-44).

## **I. Intervention and self-determination**

### **a. A difficulty with understanding the client**

Denying someone's self-determination to further it is not unusual. Parents do it all the time. The aim is to ensure that children will grow up so they can choose for themselves what kind of lives to lead and how to lead them. But though we readily justify intervening in the lives of small children, we find it more problematic to intervene when it is unclear whether those involved are capable of determining for themselves what to do. Consider the following case:

#### *3.1 Refusing help*

Wilma was in her eighties, had lived in her home for 45 years, and had lived alone for the 11 years since her husband died. Over the past few years, strangers had moved in with her, in several cases writing checks from her checkbook. She had been robbed three or four times. She is forgetful and often seems confused.

Her nephew was called by a multi-service agency for the elderly, and he closed her accounts, removed the unwanted guests, put new locks on the doors and windows, and asked neighbors to keep an eye on things. He felt that Wilma would be better off living in her home than going to a nursing home. He visits her twice a week.

One evening a neighbor called the police because she had not seen Wilma and was worried. When Wilma answered the door, the police officer found that Wilma's house was unheated. It was winter and very cold, and the officer called an ambulance because Wilma seemed ill. But when it arrived, she refused to go. The officer left and called an agency that provides emergency service. The social worker there called the agency for the elderly, but since no one there could help until the next morning, the social worker went with the officer to Wilma's house with a blanket and small electric heater. Wilma did not answer the door, and, upon forcing entry, they found her dead. Four hours or so had passed since the neighbor had first called.

When we read a case, we may have an intuitive response about what harms there were and what we ought to do about them. It is the point of our method of tracking harms to take us beyond that immediate response so we can be sure we act to minimize harm, but that initial response will sometimes be exactly what we ought to do. That is the more likely the more experienced we become in applying the method. So we need to keep the response in mind as we work through the method. We may also find a case initially puzzling, with questions about the case crowding into our minds.

We can use both our intuitive response and our initial puzzles as checks on our use of the method of tracking harms. We will be using the method properly if we come to understand why we had our initial response about what we ought to do and can then assess that

response, understanding why it was right or was mistaken. In addition, we should have answers to the puzzles or at least understand why we raised them.

So we might think of our initial response to a case as the step before the steps of the method -- what must precede those steps. Though we will climb to a different place through the steps of the method, we should keep track of where we were initially.

This case, for instance, raises puzzling questions. Why did the house have no heat, and who was responsible for ensuring that it did? Where was the nephew, for instance? Why was the agency for the elderly not set up to help in such emergencies? The elderly have problems at night as well as from 8 to 5. Why did the social worker and officer not call the local power company to see if the power had been turned off? That would tell them whether the fault lay within the house -- perhaps with a broken furnace -- and would quickly give them some information about how they might proceed. Some of these questions, as we shall see, we will not be able to answer.

However those might be answered, the clearest harm is that Wilma died. If she had gone in the ambulance, she at least would not have died in her house that night. So why did the officer not force her to go in the ambulance? Our intuitive response is that the officer faced a dilemma when Wilma refused to go. He was concerned that she not be harmed by staying in the unheated house, but also concerned not to deny her decision about refusing to go in the ambulance.

That is where we are right after reading the case, without beginning to use the method of tracking harms. The first step of the method tells us to

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

As we have said, this is a complex step in that it requires asking the following:

- Who are the participants in the case, and who else is affected?
- What is it the participants have or have not done or are or are not doing that they ought to be doing -- particularly insofar as they cause harms?
- Why are they doing what they are doing?

The first step in the method is meant to capture these questions while adding another:

- Are the reasons that seem most plausible to attribute to them sufficient to justify what they are doing?

So the method tells us to ask, first, 'Who are the participants?' Wilma, the police officer, Wilma's nephew, and the social worker are referred to, and there are others whose presence is implied, those in the ambulance, for instance. Who else is affected? The list of those immediately affected may be long, but if we consider how many in other situations may be affected by any decision that is made, the list of those affected will be significantly longer. For this case may serve as a precedent for how to respond to situations where those in apparent need refuse assistance. Are officers to be allowed to help people against their will? The answer is not obvious, and in deciding what to do in this case, we will need to keep in mind the precedential implications of the decision.

In proceeding with the first step in the method, we are to determine what the partici-

pants have done or not done, and in this case that may seem obvious as far as Wilma is concerned: she has allowed the house to become so cold that staying there risks her life. But saying that Wilma has allowed something to happen implies that she knows what she is doing, and whether she does is a main issue in the case.

The first step in our method tells us that we need to put ourselves in the shoes of the participants, after determining who they are and what they have done or permitted, and then ask,

- Why are they doing what they are doing?

But it is at this step we -- and the officer and social worker -- are stymied. We cannot figure out a good reason for Wilma's refusing to take an ambulance. That is, we have trouble putting ourselves in her shoes so that her refusing to come out of the house can make sense to us, and that makes us wonder if she really knows what she is doing. That is, it makes us wonder if she is competent to make a judgment about what she ought to do.

But we do not know. The officer and social worker can leave Wilma in the house or put her in an ambulance. But both sides of the dilemma are factually problematic. They do not know that Wilma would be seriously harmed were she to stay, but can only make a quick assessment of the risk, based on limited information. And they do not know whether Wilma knows what she is doing in deciding to stay. Only a quick assessment can be made based on the conversation with her and on a presumption one way or the other about whether a competent, fully-informed individual would voluntarily choose to stay in such a situation.

The social worker and officer had to make these quick assessments keeping in mind that the harm of someone's dying is worse than the harm of denying that person's self-determination. Harm to the person exercising self-determination can justify denying it -- at least temporarily. For if what someone decides to do looks risky, we think it reasonable to intervene -- at least to tell the person of the danger. If you see someone about to walk on a bridge you know to be so dangerous it will fall when anyone walks on it, you should tell the person of the danger. It would be unethical not to.

Yet if we tell the person, who then decides to continue walking, we may have a problem -- similar to that the officer and social worker faced. The risk to Wilma that would come from her staying in the house is high. The social worker and officer do not know she will die if she stays, but have good reason to believe she will be harmed. In asking her to take the ambulance, the officer was effectively informing her she should leave. The problem arose when she refused and persisted in what appeared to be risky and even irrational behavior.

## **b. When self-determination is possible**

To come to grips fully with this case, we need to examine in more detail the conditions that must be satisfied if someone is to be autonomous. Both the situation and the person must be of a certain sort.

*The situation* -- One condition of the situation is that there be real options. If a mugger says, 'Your money or your life!,' you seem to have options, but if you refuse to hand over your money, the mugger can kill you and take it anyway. The mugger thus gives you no real choice -- though you can assess the likelihood of the mugger's killing you anyway and decide to take the chance. The police officer would have no real choice regarding Wilma if, for instance, there were no hospital available that would admit her.

We presume that it was not an option to turn the heat on. If it were, it is hard to understand why the officer left Wilma without heat when heat could be obtained so easily. But we do not know if the furnace could not be restarted, if the power company was contracted to see if it had emergency service available to start the furnace, or even if the social worker and officer considered getting the furnace started. We would need more information than we have to know exactly what options they had and what options they thought about.

*The person* -- When we consider how someone perceives a situation, we are looking at those features of the person making a decision that are essential to a self-determination. These are that a person be

- (a) mentally competent,
- (b) informed, and
- (c) deciding voluntarily.

We make judgments without full information all the time. We stop at stop lights, for example, without knowing that the driver behind us will stop. Since we do not require full information for self-determination, we may ask, "How much information is enough?" We also make decisions often without being fully competent. If you need coffee to wake you up, you may be deciding to get up without being fully competent. So we may ask, 'Just how competent does one have to be?'

Yet asking such questions implies that people need to prove themselves when in fact we generally presume self-determination. We do not demand evidence that someone old enough to own a house knows what they are doing in carrying out the garbage or fixing breakfast. We require evidence only if someone claims the presumption is mistaken. Rather than ask how much information or competence is enough, we ask:

- (i) What presumptions are appropriate for which persons?
- (ii) When it is appropriate to question a presumption?
- (iii) What sorts of considerations properly move us to override a presumption?

None of these questions is easy to answer, and yet how we answer them matters.

Anyone who has had a teacher or a parent, a boss or colleague, who thought them not good at something knows how hard it is to prove oneself when someone presumes that proof is needed. Doing something right once is not enough. That may be luck. We must instead do the right thing time and again -- enough to outweigh the presumption. So making a presumption one way or the other matters enormously.

Some cases pose no difficulty. We presume that infants are unable to determine for themselves what is in their best interests. We maintain that presumption for children up to a certain age even though, as any parent can attest, the age at which that presumption ceases to be appropriate can be the subject of much dispute, especially with the children. We even presume someone capable of self-determination sometimes when it is not clear the person is. We do this for children as they grow older, saying to a child, for instance, 'You are old enough to think about how someone else might feel who was treated that way!' Presuming the capacity for self-determination encourages responsibility, and so we sometimes presume it in unclear cases. Of course, such cases can present ethical issues if the presumption is inappropriate.

Sometimes the person we presume capable of self-determination does something that does not seem right for the situation. We question the presumption because of there not being something right about the situation. Wilma did something -- refuse to ride in the

ambulance -- that did not seem right for the situation, and so the police officer had to consider whether she was really competent. The form of what does not look right will suggest to us what condition is at issue -- whether the person was uninformed, incompetent, or acting involuntarily.

These three conditions work in concert with one another. If someone is competent and informed and yet does something we think a reasonable person would not do, we presume the action was involuntary in some way and try to figure out whether the person was coerced or is acting under some internal compulsion. If someone competent is acting voluntarily but does something we think a reasonable person would not do, we presume the person is not properly informed. Lack of the relevant information would explain, we think, why someone who is competent would voluntarily do something unwise. And if someone is fully informed and acting voluntarily, but does something odd, we presume lack of competence. Nothing else would explain, we think, the mistake. The three conditions so work together that when two are satisfied, and yet we have some failure, we presume that the third is not satisfied.

We also presume that someone cannot be properly informed if incompetent. The officer may have explained to Wilma what the situation was -- that she was likely to die if she did not get warm -- to try to ensure that she was fully informed, but she may have been so cold she could no longer think clearly. Then she would not be competent enough to become informed.

When someone does something that does not seem right for the situation, we can, to summarize, raise a question about the presumption we make, whatever it is. The form of failure suggests what condition of self-determination is at issue. The person may not have had appropriate information. Or the person may do something, we discover, he or she had no choice but to do. The choice would then be competent, but involuntary. Unfortunately, there are both practical and conceptual problems in determining whether someone is capable of self-determination -- knowing that someone had appropriate information, or had no choice, or was competent.

### **c. Problems with these criteria**

The most obvious practical problem arises because we often are unable to find out enough about a person to make an assessment of their competence. A person may seem to exhibit all the traits of competence and yet, for all that, still be incompetent. Part of Deborah's problem in *The death of a baby* is that she does not know enough about Hal to know whether he could have intentionally chosen to suffocate his son. She might have found out more with more time, but we often do not have time to gather relevant evidence. The officer could at most ask a few questions to get a sense of whether Wilma understood and could not be sure that any hesitation or apparent false steps in Wilma's responses were not caused, for instance, by being questioned by a police officer who had come unbidden to her door.

Besides these practical problems, we can find ourselves unclear about what we would be willing to count as competent, or appropriately informed, or properly voluntary. We may be plagued with conceptual unclarity. We may find ourselves unsure what we would be willing to count as instances of the thing in question. Consider incompetence, for example. People may choose to do things others find incredible, for example. They choose to go over Niagara Falls in a barrel or to climb hundreds of feet up sheer rock faces covered with ice. Some of us would judge them incompetent because they decide to do such things; others

would not. Determining competence by what people decide to do can be problematic. If we question what they do, should we then examine their mental capacities -- their capacity to reason, to assess risks properly, and so on? But some persons with mental illness may be perfectly good at logic. They reason well from irrational premises.

One factor that matters in what we presume about others is the degree of risk to which they subject themselves. We are not concerned with whether someone is really competent, informed, and acting voluntarily when the stakes are low and the presumption thus carries little risk. Presuming that a child is competent is easier when the child is in a sandbox than up a tree. Wilma appears to be in a life-threatening situation and presuming competence puts her at great risk. We generally require less evidence to override the normal presumption of competence when the presumption puts someone at great risk than we would in a less risky situation.

We also generally agree upon what makes a difference to someone's being competent. The police officer thought Wilma ill, and being ill can make one less competent -- easily confused or too tired to pay attention. Being too cold can make a person think less clearly. In addition, Wilma is in her eighties and so arguably more likely than those who are younger to have some physical condition, such as Alzheimer's, that would make her confused. The police officer thus has some reason for thinking that Wilma was not competent in refusing to ride in the ambulance.

But being sometimes confused does not mean being incompetent. Even being sometimes incompetent does not mean being always incompetent or incompetent in the situation in question. Even if the officer knew that Wilma would die if she did not leave the house, that may not be enough, even with hesitations about her competence, to override the normal presumption we make. Wilma might have decided that she was going to die and that she preferred dying that way, in her own house, without the hassle and expense and indignities of hospitals. That someone might disagree with that decision, even that most might disagree, is not evidence that it is mistaken or that the person who makes it is incompetent.

It is her life at risk, some may argue, and anyone is entitled to as much respect as possible for a decision about something so vitally important. We are properly reluctant to override someone's decision about something so vital -- especially when it is expressive of themselves. Thus, we are reluctant to override a decision not to seek medical help when it is made on religious grounds because we presume that the decision is more firmly founded on beliefs deemed vital, by that person, to the person's sense of who he or she is. What we do not know is whether Wilma's decision not to go in an ambulance is expressive of something of concern to her.

We thus find ourselves with an ethical problem at the very first step in our method, namely, in presuming Wilma's competence in making a judgment about not going in the ambulance. The case is factually problematic, that is, because we cannot be sure, from the information we have, whether Wilma is competent. So a judgment about what to do will have to be made considering both possibilities, namely, that she is incompetent so that some others (e.g. a police officer) can appropriately decide for her, and that she is not incompetent so that if others do decide for her they are denying her self-determination (and so may be liable for a legal suit, for instance).

#### **d. Choosing harm**

The Code of Ethics tells us that we may 'limit clients' rights to self-determination when, in the social workers' professional judgment, clients' actions or potential actions pose

a serious, foreseeable, and imminent risk to themselves or others,' but it also tells us that we are to 'promote clients'...self-determination' (1.02). Wilma risks a serious, foreseeable, and imminent risk to herself, but she may be choosing that. She may be like the person who is about to walk across a dangerous bridge who, upon being told that, says, 'I want to anyway.' Is her deciding this itself a sign that she is incompetent? Or can individuals competently do things others of us would not do?

In this regard, consider the situation a medical social worker faced:

### *3.2 Depressed and ready to die*

Dorothy was diagnosed as having rectal cancer while she was also going through a nasty divorce. She had radiation treatment for that, but became very depressed and suicidal. She was diagnosed as schizophrenic, but was functional. She had her own apartment and car and cared for her two-year-old daughter. She came back into the medical hospital with inoperable cancer of the liver, but tried to sign herself out and stopped taking medication. She was sent to a psychiatric hospital.

The psychiatrist wanted her to have chemotherapy, but Dorothy refused. 'I don't want to do it. If I go through that again, I may prolong my life six months at most.' She wanted to go back to her apartment. She had lived there with her cancer before, but the psychiatrist refused to release her from the hospital unless she had chemotherapy and even then would only release her to foster care.

The other members of the multi-disciplinary treatment team agreed with Dorothy that she should be allowed to go home. They had explained the options to her and talked with her at some length. They agreed that 'she could talk quite clearly about all this and about what she wanted.' When she had had chemotherapy before, she became very ill physically, and she saw no point in such pain to prolong her life for so short a time.

But the psychiatrist told Dorothy, 'If you do not agree to accept chemotherapy, I will have to consider you suicidal, and I can't release a suicidal patient.' The other members of the team attributed this response to the psychiatrist's having been trained as a pediatrician and to her having come to this country as an adult. 'She has different cultural values and wants to save people in spite of themselves. So she treats them like children, which she finds easy to do.'

The other members of the team thought about going to the Director because the psychiatrist was essentially holding the patient for a medical condition, and that was inappropriate under the mental health code. But whenever they pressed the psychiatrist about this, she fell back on the claim that the patient was suicidal, and when staff members had gone to the Director before, the Director always backed the doctors, and they just got a reputation for causing trouble.

So they wrote up in their reports what they thought should have been done so that, whatever happened, they would be covered.

Dorothy's psychiatrist takes her decision to forgo treatment as evidence that she is not competent to make such a decision. Choosing to forgo treatment is tantamount to choosing to die sooner rather than later, and so what she decides is enough, the psychiatrist thinks, to prove her incompetent.

The story is complicated by the psychiatrist's having come to the United States as an adult and having been trained as a pediatrician. The other team members question whether the psychiatrist's judgment is really based on an objective consideration of the patient.

But what concerns us about this case is that Dorothy provides reasons for refusing chemotherapy. Her argument is straightforward:

1. I have inoperable liver cancer and will suffer great physical and emotional harm if I have chemotherapy for it.
2. The suffering is not worth the short additional time I can reasonably expect to live with chemotherapy.
3. Therefore, I do not want chemotherapy.

We may disagree with how she weighs the suffering of chemotherapy against living longer, and we may think her mistaken in how much she thinks she will suffer. But it is she who has to suffer and her life that will be prolonged. She has thought about what she wants to do and why, made her judgment, and made her position clear.

If we return to Refusing help, we can see the striking difference between these two cases. Whereas Dorothy's decision may be thought expressive of her views of the relative values of life and suffering, we have no understanding of Wilma's refusal. Her refusing the ambulance not only does not seem right for the situation, but also seems to have no clear plausible basis.

The most difficult ethical problems occur when we must choose between competing harms. The social worker and officer are faced with this sort of problem -- risking harm to Wilma's autonomy or her life. The evidence does not make it obvious which choice is the best, but some action is required. If the social worker and officer knew Wilma would not die if she did not go in the ambulance, there would be no ethical problem; and if Wilma were known to know what she was doing in rejecting the ambulance, there might be regret, but no ethical problem. The ethical problem arises because the social worker and officer do not have enough evidence either to force her to go or to leave her alone, but do have enough concerns that doing nothing is not an option. So what ought they do?

- (2) Determine what goals the participants had and what means they thought would achieve those goals; then determine what goals ought to be achieved and determine what means are best for achieving those goals.

The goal seems clear enough: try to minimize the harm to Wilma. The problem they face is to determine which alternative causes minimal harm. Since Wilma is in a life-threatening situation so that the risk to her of great harm is high, we require less evidence to override a presumption about her being competent, informed, and acting voluntarily. Yet though we have doubts about the appropriateness of that presumption, we also have doubts about those doubts. She may be perfectly competent. One way we handle such unclarity, when we see harm occurring if we do not intervene, is to moderate the form of our intervention. We try to determine a way to respect a person as much as we can while minimizing the possibility of the harm that may occur.

One way to respect Wilma, and still act to protect her life, is to provide her with the ability to warm herself. Only if it were not possible to do that, relatively quickly, would the officer be faced with forcing her to go to the hospital or leaving her in the unheated house. Seeing the neighbor who called about the problem was an option since Wilma might have been willing to stay with the neighbor. Tracking down the nephew was another option. Calling the power company to see if the problem was with a loss of power was another one. What the officer did was contact a social worker, and they tried to allow Wilma to warm herself by bringing a blanket and heater to the house. We can understand why they did what

they did -- even if it was too late to be of help.

Understanding, however, is not justification. Since time was of the essence, it is arguable that the officer ought to have pursued the other options to see if something could be done more quickly. It is also arguable that if no alternative was available to allow Wilma to warm herself quickly, the officer ought to have made her take the ambulance. The justification would be that that was the best way to minimize the harm to her. First, it would be more harmful to Wilma to die than to be forced to go to the hospital. And, second, there would be time enough, after she was treated and warmed up, for her to go back to her house if she wished and do what she wished to do.

We have considered only the ethical issues here, and relevant laws may have made it difficult if not impossible for the officer to put her in an ambulance -- or made it mandatory for the officer to do so.

In summary, if a person's decision does not seem right for a situation, we question the presumption we make, whatever it is, about self-determination. We hunt for evidence of lack of information, or of incompetence, or of less than voluntary choice so we can understand why the person would have made the decision. When the case is factually problematic, as with Wilma, we try to find some form of intervention that respects the person involved, as much as possible -- though we need less evidence to overturn a presumption of self-determination when the situation is life-threatening than otherwise.

#### **e. Impaired self-determination**

It is an issue regarding Wilma and Dorothy whether they have full self-determination. Let us consider briefly a case where there is no doubt that the capacity for self-determination is impaired. The issue for Barbara, the social work practitioner, is how to respond to a concern that a boy, Rob, be placed in a foster home:

##### *3.3 Low-functioning parents*

'The parents met in the state hospital,' Barbara said. 'They're not psychotic. Their main problem is that they are low-functioning. Rob is ten, and he's smarter than they are. He's hyperactive. He's on medications. He's got sexual identity problems. He's a behavior problem. He tells his parents what to do.'

'The school and a private agency want us to place him in foster care because the parents seem unable to handle him. The parents are like pack rats, collecting everything. So the house is filled with stuff, but it is not filthy. They were dressing him like a little girl and letting his hair grow into bangs, but once I explained to them what they needed to do, and provided them with funds to get a haircut and new clothes, they did what was needed. They clearly love their son. When he refuses to do his homework the mother calls me, worried that he will fail. They're not abusing their son, and they're not neglecting him. So I have no good reason to justify taking him out of the home.'

'Besides, he would be a difficult placement, with all his problems, and I've seen the difficulties children have experienced in foster care -- adjustment problems, attachment separation issues, and also abuse.'

'The real issue is that this family is always going to need someone from the community to assist them in parenting the child. They are doing the best job they can.'

Rob's parents are not fully competent, and Barbara thus has a dilemma, brought on by the insistence of the school and a private agency that Rob be taken from his home and placed in foster care. But, she argues, he is not being abused or neglected. There is thus no reason to take him out of his home. And trying to find a good placement for him would be difficult. She is tracking the harms in the case, following 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?

Her judgment about what is best to do -- how best to achieve the goal of minimizing harms to Rob -- is that he should stay at home.

This case raises a variety of issues, but we note the case here only to see how, in trying to minimize the harms to Rob, Barbara respects what capacities for self-determination Rob's parents possess. Barbara's decision in part reflects the view that it is usually better to keep a child in his or her natural family, but it also reflects the judgment that Rob's parents are competent enough, given proper guidance and help. They are not fully functioning, but they do function and can parent Rob -- with help. The case is thus a good object lesson to remind us that maintaining someone's capacity for self-determination is a paramount aim, even if that capacity is less than perfect.

## **2. Conflicts with self-determination**

Self-determination is not an absolute value. We recognize restrictions on someone's right of self-determination for all sorts of ethical reasons. My right to swing my fist stops where your nose begins, and the reason is that each of us has a right not to be harmed which is at least as weighty as the right to self-determination. The right to self-determination is a *prima facie* right -- a right that ought to be respected and thus can be denied only for ethical reasons more weighty than the reasons supporting the right to be denied. As we have said, 'weighty' is a metaphor and needs filling out in terms of the extent and kinds of harms that would occur were such a right not denied, and as we have seen, determining what reasons are more weighty in a particular case can be difficult.

In Refusing help, the officer needs a good ethical reason to override Wilma's decision not to ride in the ambulance. The threat of harm to her would arguably be weighty enough only if no other form of intervention were available. In Depressed and ready to die, Dorothy's decision not to have chemotherapy ought to be respected unless very good ethical reasons exist for overriding it.

Wilma and Dorothy were exercising their self-determination in ways that could harm themselves, but self-determination can also conflict with other values in social work practice. Indeed, there are as many possible conflicts with self-determination as there are social work values. Self-determination can harm others, for instance, by causing bodily harm, as when I swing where your nose is, or by denying someone's right to confidentiality, as when a social work practitioner tells someone something given in confidence. We cannot determine ahead-of-time, as the Code emphasizes, 'which values, principles, and standards are most important and ought to outweigh others in instances when they conflict' (Purpose of NASW Code of Ethics).

In Doing what the judge orders, John thought Al might be putting others at risk of getting AIDS. But because John received in confidence the information that Al might be HIV-

positive, he got his supervisor to go with him to get the judge to order a physical, including a test for AIDS, without telling Al. When we were following through the first step in our method to try to make sense of what John was doing, we attributed to him something like the following reasoning:

1. I ought to minimize the amount of harm that may be caused.
2. Al may cause harm to his foster family and his girl friend.
3. If he is tested for being HIV-positive, we will find out whether he may cause harm to his foster family and girl friend.
4. So he ought to be tested to determine if he is HIV-positive.

In analyzing this case, we decided that the third premise was false. The test may not give us the information we need.

But if we are to understand why John had Al tested without telling him, we also need to attribute to him something like the following:

1. If I tell him he is to be tested, I risk his mother finding out that his mother's social worker has told what was given in confidence.
2. He is 15 years old and so not entitled to much self-determination.
3. The possible harm to others if he is HIV-positive and the loss of confidentiality if he is told are more weighty than whatever right of self-determination he may have as a 15 year old.
4. So I can arrange to have him tested without asking him.

These arguments allow us to see how the values of maintaining confidentiality and not harming others operate for John in Doing what the judge orders. John thought the risk to others substantial enough to have Al tested, and he thought the concern not to breach confidentiality weighty enough to deny Al's self-determination.

We might disagree with the ways in which John weighed these values one against another. As the Code makes clear, 'Reasonable differences of opinion can and do exist among social workers with respect to the ways in which values, ethical principles, and ethical standards should be rank ordered when they conflict' (Purpose of the NASW Code of Ethics). But we did not need to get so far as to try to assess the weight of these values in this case. For when we asked what goals John had in mind in testing Al, we realized that whatever he found out, he would have to inform Al, and so we did not need to weigh these values one against another to determine if John had acted correctly.

Consider another case where the issues of self-determination, confidentiality and harm to others are intertwined for a clinical social worker:

### *3.4 Lying to save a marriage*

'A married woman came to me. She is running around. I am also seeing her husband, and she asks me, "Do you think my husband is running around?" I told her no. And he isn't. He's a good man. I wouldn't tell the husband that the wife is running around if he asks me, but I know damn well she is running around. I have to lie to the husband because if I say, "I don't know" or "I can't tell you," or if I refuse to answer on the ground that I have a professional and confidential relationship with the wife, he will believe his wife is running around.

'Since I am a professional person, I will be believed if I say the wife is not

cheating. I am patching up a relationship then. In our culture if you tell a lie with a straight face, it will be believed. Arab culture is a face-saving culture; American culture is a guilt-ridden culture. I will not feel guilt at lying. I would feel shame if someone found out that I was lying, but I will act to protect myself from being found out. I sometimes feel I shouldn't send an Arab client to an American social worker if there is an issue where guilt and shame is involved.'

Mohammed is considering what he would do were the husband to ask about his wife. He is thus beginning the third step of 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?

What follows is an object lesson in how to work with (3) of our method. We shall consider only one possible course of action, namely, what Mohammed says he would do, lie. But, to put it briefly, that would not just prevent the husband from being informed about what his wife is doing. It would misinform him. The harms of doing this are many, are of different kinds, and of very different magnitudes.

(a) When we lie to someone, we prevent that person from acting with self-determination to the extent the person acts without the information we fail to provide or on the misinformation we do provide. Suppose I want you to do something for me, but know that, if you knew the truth, you would not do it. So I lie to you, and you, believing me because you think I am your friend, act on that false information.

The harm is not just that I get you to do what you might not otherwise do, but that I get you to do it by treating you as an object -- an intelligent object, with a mind to be manipulated by false information, but an object nonetheless. I deny your capacity for self-determination even more effectively than I would by grabbing your arm and moving it -- since you would then you are being manipulated -- and I deny it in a particularly devious way because I make it seem to you that you are making the decision with full self-determination.

I thus harm you in a special way. As we saw in Chapter 1, I have wronged you, and I wrong you, by denying your self-determination, whatever good may happen to come from what I have done. And I have not just wronged you, I am poisoning our relationship. I am not treating you as a friend if I treat you as an object.

Mohammed says he is giving the husband false information for the good of both the husband and the wife. He says he is 'saving the relationship.' But even if he were saving the relationship, we should have to weigh his saving it against his wronging the husband by treating him as an object.

(b) If Mohammed thought the husband, if he knew, would choose to save the marriage, he could tell the husband. But Mohammed says he is keeping the information from the husband to save the marriage. So he must be deciding not as the husband would decide, but as he thinks the husband ought to decide. One test we use for making decisions for people who are incompetent is to ask whether, if they were competent, they would choose what we choose for them. If we can answer with good evidence that they would, then we know we have chosen rightly. By this test, Mohammed is harming the husband doubly -- by treating him as though he were incompetent and choosing for him what he might not choose if he were informed.

(c) The wife's self-determination will be harmed. She is now a party to a deceit she must maintain, and so she must be careful not to say or do anything that would reveal what she has told Mohammed. Every time she acts, every time she speaks, she must think about

whether what she does or says will reveal the secret she and Mohammed are now a party to. Her self-determination is limited to the extent such hesitation enters into her actions and words.

(d) The marriage will be harmed. On the one hand, the way the wife relates to her husband will be conditioned by the possibility that he will come to know, and that will harm her capacity to be spontaneous, open, and intimate with him. On the other hand, the longer her husband does not know, the more she is in a position of power over him, having deceived him once without any bad consequences, and that will prevent their being in a relationship of mutual trust and respect. Were the relationship to continue, that is, it would be based on a lie, a false understanding. That is harmful in itself, and the falseness may reverberate through the relationship and affect other aspects of it. It is certainly not obviously better that their relationship continue, based on such a lie, than whatever comes about if the husband comes to know.

(e) The relations between Mohammed and the husband and wife will change no matter what happens. If Mohammed tells the husband, he will have broken the confidential relationship that ought to exist between a social worker and a client, for he will have told something the wife told him in confidence. But if he does not tell the husband, he will be a party to the deceit the wife is practicing on the husband. In addition, not telling the husband puts the wife in Mohammed's power. She knows he knows, and he is always in a position to tell.

Much immediate harm thus comes from Mohammed's lying to the husband. Mohammed says he would be believed if he lied because he is a professional and because in his culture lies said with a straight face are believed. But, however that may be, at least one other person knows the wife is fooling around, and so this information may get back to the husband. If it does, he may discover he has been deceived by his social worker as well as his wife. That will change his relationship with the social worker -- as well as, presumably, with his wife.

In short, if we weigh the possible benefit of saving the marriage against the known and likely harms, it is no contest. The supposed benefit is not worth the harms to everyone involved. But the social worker has the information about the wife because he is seeing both professionally. If he were to tell the husband his wife is running around, he would be divulging confidential information. So there is another issue here. Ought he to give the husband such confidential information? How are we to weigh the harms that will come from that against the harms that come from lying to the husband?

Mohammed is not in the best position to make this decision. His telling would harm his professional relation with the wife, and he would likely be held responsible, justly or not, for any subsequent problems with the marriage. Not telling misleads the husband, but the husband may never come to know that. So the social worker is protecting himself from harm by not divulging the information.

Acting in a way that protects one's self-interest is not wrong if it is the right thing to do, but we have another reason to be concerned about Mohammed's objectivity. He would not be in a position to consider passing on such information if he were not individually counseling both the husband and wife. The difficulty with divulging confidential information would never have arisen, that is, had he followed the practice of never taking on as individual clients people whose interests are so intertwined, like spouses, that knowing about one may cause a change in the relationship with the other.

Mohammed got himself into such a difficult situation because he made a bad decision about whom to take on as clients or because, having made that decision, he failed to follow standard procedure. Before he begins, he should, as the Code puts it,

seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others (1.07(f)).

He should also inform his clients that he 'cannot guarantee that all participants will honor such agreements' (1.07(f)) and that when he does disclose confidential information, he will inform the clients (1.07(g)). Lying to save a marriage is an example of how what seems to be a simple mistake can later produce a difficult ethical problem. But because Mohammed has made the mistake, what ought he do now? What are his options?

It might seem that his only options are to keep the confidence, and so lie to the husband and cause harm to him, the wife, and their relationship, or break the confidence, and so cause other harms. But it helps here to consider the second step in our method and

(2) Determine what goals the participants had and what means they thought would achieve those goals; then determine what goals ought to be achieved and determine what means are best for achieving those goals.

Mohammed says his goal for the marriage is to save it, but if he is denying the husband's self-determination by lying to him, it is at the price of both spouses being in a relationship in which they have less than full self-determination. Neither spouse will be able to be fully self-determined. The husband will be acting without full knowledge; the wife will be acting while trying to keep up the deceit. Is saving such a marriage, at such a price, a worthy goal? What is so valuable about a relationship in which the self-determination of both parties is so harmed?

In addition, Mohammed would be in a therapeutic relationship with both the husband and the wife that would be less than fully open -- because deception is necessary to maintain one relation and denial is necessary for the other. Is any potential gain from counselling the husband or the wife worth such costs in such circumstances?

If Mohammed's goal were to encourage self-determination, he would encourage the wife to tell her husband and not lie to him. Instead of taking upon himself the decision whether to break the confidence of the wife or lie to the husband, he could encourage the self-determination of both by encouraging the wife to take responsibility for her actions. It is unclear what the result would be, but Mohammed would at least not be causing harm to produce a harm. He would be encouraging self-determination to encourage relationships in which self-determination would have a chance to flourish.

Being clear about our goals is thus helpful in determining how to weigh one ethical value against another. Self-determination is not always the most important value, but in this case, when we consider what Mohammed's goals ought to be, encouraging self-determination is the best way of achieving them.

Of course, the wife may refuse to tell her husband, and then Mohammed would have to determine what to do. His options are limited then, and each causes harm. For instance, he could tell the wife that if she does not tell, he will have to tell. But that is a form of coercion and is counter to the trust that ought to exist in a therapeutic relationship and counter to the goal Mohammed ought to have of encouraging self-determination. He could also respond to the husband's question, should he ask, by saying that the information is confidential. Because, he thinks, the husband would then assume his wife was playing around, that answer would presumably encourage the husband to confront the wife. That could have terribly harmful effects -- and certainly should never be taken lightly -- but it also could force

the wife to take responsibility for her actions. In short, having agreed to see each person individually, Mohammed has few options and no good ones.

One of Mohammed's arguments in favor of lying to the husband is that, in the culture he and his clients share, he will supposedly be able to succeed in lying. If this is true, the husband will never find out -- from Mohammed at least. But he may find out from some other person, and, in any event, the other harms we have laid out remain.

It is important that social workers have an understanding of different cultural values, and the Code of Ethics speaks to this obligation at 1.05(a) and (b). However, whether Mohammed is right that there is a different cultural norm makes no difference in our understanding of what Mohammed ought to do. Assured success at being deceptive does not justify deceiving.

Of course, that conclusion rests upon some premises about ethical relativism that would need to be defended thoroughly if we were fully to justify it. Briefly, there appear to be three ways of understanding differing judgments about what ought to be done that appear to differ because of the different cultures of those making the judgments:

- Accept that no one in one culture has a right to make an ethical judgment about anyone's acts or omissions in another culture.
- Argue that though those in different cultures appear to make differing judgments about what ought to be done, there are a core set of ethical judgments that are identical. Lying is lying, that is, and is always wrong, but what looks like a lie to someone from another culture may be the truth, appearing to be a lie only because of the different cultures.
- Argue that someone from a different culture has no ethical right within another culture to use the cultural norms of his or her own culture.

Each of these responses to ethical relativism has its problems. The first response, for instance, would seem to imply that if we are not German, we cannot make the ethical judgment that the Nazis were wrong to kill Jews. But we are not going to explore here the various reasons for and against these three kinds of responses. It suffices to note them and to note that the second and third will have the same outcome for at least the core set of ethical beliefs that will generally be at issue in social work practice.

### **3. Relations with clients**

#### **a. Dual relationships**

A physician who giggled when examining you would be acting unprofessionally, no matter how funny you might look. A social worker who made friends with clients would have crossed the same sort of boundary. These boundaries can be difficult to draw or maintain, but both parties to the relationship have obligations that come from being in a professional relationship. A lawyer who fails to file legal papers on time has failed a professional obligation, and if you fail to show for an appointment, you have not fulfilled an obligation to the lawyer.

The third step in our method says that we should

(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?

As we work through this step when we come to different cases, we shall find that many of the harms we uncover will concern the relationships between social workers and their clients. Yet how unclear the boundaries of these relationships may be is illustrated by the following case:

### *3.5 Friends and professional relations*

Paul was a recovering substance abuser who regularly attended meetings of Alcoholics Anonymous. He was also a social work therapist who worked with substance abusers. He encouraged Mark, one of his clients, to attend AA meetings. He had himself been attending meetings, but AA encourages those who come to the meetings to rely on each other, to call if they need help, for instance. Mark needed help and called Paul regularly.

Paul felt that he was doing therapy at Mark's beck and call rather than during their scheduled sessions. He confronted Mark, and Mark, feeling very rejected, stopped seeing Paul, dropped out of AA and out of treatment, and had a relapse.

In going to AA Paul put himself in a situation where he had obligations to help the other members of his group, including Paul -- just as they had obligations to him should he call on any of them for help. He also had a professional obligation to help Mark because Mark was his client. It might appear that far from competing, these two obligations of Paul's would reinforce each other. After all, they are both obligations to help.

But Paul's professional obligation to help Mark was an obligation with clear temporal boundaries. The two met at a certain time, for a certain time, and that was the end of the relationship until the next time -- unless Mark had some emergency. The obligation Paul had from being in AA was to help whenever any other member of his group needed help. Of course, Paul could refuse to help if it was 2 a.m., say. But far from reinforcing each other, the obligations conflict because the one from AA is relatively open-ended while the one from the professional relationship is relatively restricted. The former encourages, while the latter does not, extra help whenever in need.

More importantly, the relationship a therapist has with a client is marked by power of the therapist over the client, and that power relationship does not fit well with the form of collegial relationship encouraged in AA. Paul must be both therapist and confidant to Mark, and though a person may function in both capacities without any conflicts arising, there is always the possibility for a conflict of interests.

The Code puts up a red flag regarding conflicts of interest:

Social workers should be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

The Code goes on to say that social workers should inform clients of 'a real or potential conflict of interest' and then 'take reasonable steps to resolve the issue in a manner that makes the clients' interests primary.' It notes that sometimes such conflicts may 'require termination of the professional relationship with proper referral of the client' (1.06(a)).

Paul has competing interests -- an interest in helping Mark because both are in AA and an interest in seeing Mark professionally. In helping Mark through AA, Paul is providing

what other members of their AA group presumably cannot provide, namely, help from a professional skilled in working with substance abusers, and he is doing it for free. The relation Mark has with Paul have through AA at the least allows Mark to overstep what ought to be the normal professional boundaries that generally preclude a client from calling a therapist regularly.

Mark also knows personal matters about Paul that clients would usually not know about their therapists. He knows that Paul has himself enough of a problem with alcohol to feel the need for going to AA. So Paul's seeing Mark professionally as well as in AA changes Mark's relationship with Paul as well as Paul's relationship with Mark.

This case concerns both the obligations and the proper boundaries in a relationship between a social worker and clients. Does Paul have an obligation to cease going to AA because he has an obligation to refer his clients there when they need it? The answer depends in part upon how many AA chapters there are around, upon whether Paul can go to one that is not too inconvenient for him where he is not likely to meet his clients, and upon whether, if he cannot, he has an obligation to go significantly out of his way so as to avoid his clients. Is it proper for Paul to have a relationship with a client, Mark, that is independent of his professional relationship? And, in regard to this last question, if he has any such relationship, does it matter that it is about the same issue Mark is seeing him for professionally? Would it matter if they sat on a community board together?

These questions are not easy to answer, and, were we to continue to examine this case, in accordance with the method we propose, we might well discover, as the Code makes clear, that 'There are many instances in social work where simple answers are not available to resolve complex ethical issues' (Purpose of NASW Code). These kinds of cases can be notoriously difficult to resolve satisfactorily.

## **b. Further kinds of dual relationships**

We are not concerned to provide answers to the cases we examine here, but to raise the kinds of problems that social workers can face in regard to clients. In this regard, consider the following case, which pursues the issue raised in 2.5 Friends and professional relations of what kind of relationships a social worker may have with a client, or a former client, outside of their professional relationship:

### *3.6 Can you help me now?*

Martha had an alcoholic client who responded well to therapy. Though eventually the therapy ended, the client stayed in AA, still feeling the need for support.

Martha had liked her as a person in the therapeutic relationship. The client was a massage therapist, and so, after a period of time had passed, Martha went to her to get massages.

The woman later relapsed, but did not come back to Martha. Martha later discovered that the woman had wanted to come back, especially in those shaky stages before the relapse, but felt that because they now had a different relationship, she could not.

Martha may have thought the client effectively cured. But her choosing to see her former client raises an issue about what sorts of relations are permissible between professionals and clients. We need to distinguish at least three different kinds of cases. As we

shall see in examining these, what is at issue is the potential for harm that occurs for a professional relationship when some other kind of relationship comes to exist as well. As the Code of Ethics states,

Social workers should not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client. In instances where dual or multiple relationships are unavoidable, social workers should take steps to protect clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries (1.06(c)).

As we noted, we shall be marking the kinds of harms that can occur because of the professional relationship between a social worker and a client.

First, it is sometimes difficult not to have some sort of nonprofessional relationship with clients even though having such a relationship may interfere in some ways with the professional relationship. A therapist who refused to help anyone he or she saw socially would ill-serve a community if no other such care were available. In any event, we often get thrown into relationships with others. You and a client may both have children on the same sports team and find you must juggle driving schedules together. We could hardly fault a psychiatrist who called the only available plumber to help with a flooded basement even if the plumber were seeing the psychiatrist professionally. Yet these further relationships may well mar the professional relationship. The plumber might respond to the request to come at an odd hour by reciprocating and asking for therapy at odd hours, or the psychiatrist might find the plumber incompetent and be faced with all the harm that making an issue of the incompetence could do to the client's self-esteem (and perhaps the client's reason for being in therapy) and to their professional relationship.

Second, you may come to have a relationship with a former client voluntarily, and you may seek that relationship innocent of any bad intent. Martha's case seems to fall into this category. She chose to become her former client's client, reversing the former professional relationship. We may fault her for having sought out a relationship with her former client, but whether we fault her, and how much, will depend upon such factors as the risk of harm to her client, whether others besides her former client were available, and how badly she needed to see someone to give her a massage -- for medical reasons, perhaps? How long must you wait to have any other sort of relationships with your clients, or should you try never to have such relationships?

Third, other relationships with clients can put into question the intent of the professional involved. These cases raise serious questions about whether the client's interests in obtaining the best professional service possible have been harmed. Consider the following case:

### *3.7 Having sex*

Theresa came to see a therapist, Aubrey, in a family counseling agency. It came out over a number of sessions that Theresa had been in therapy before and had an affair with her previous counselor that began several months after the therapy ceased. She was married and was struggling with the affair's having ended and with her guilt at having had an affair.

Aubrey suggested that the counselor had crossed the proper boundaries between therapist and client in having a sexual relationship, even though the therapy had ended several months before the affair began. Theresa had not thought about

that, but, as she did, she began to think that perhaps the initial stages of the affair started before the sessions with her therapist had ended, and she wondered if, as she said, 'I somehow perhaps may have led him on.'

Despite Aubrey's urging, Theresa decided not to press charges -- partly because she did not want the publicity, which she thought would harm her relationship with her husband, and partly because she was not convinced that the affair was wholly the therapist's fault.

So Aubrey investigated on her own. She discovered that the therapist, who lived in a nearby community, was referred to as a licensed psychologist although the law required a Ph.D. for that title and the therapist did not have a Ph.D. Aubrey called a university where the therapist was to lecture, informing them that he was not a psychologist when they had advertised that he was one, and she let it be known in the community that he was operating under false credentials.

One factual unclarity concerns what relationship Theresa and her therapist had in the professional relationship. It may look as though he had acted professionally because he has not pursued his romantic interest in her until after their professional relationship had ended. But, thinking back, Theresa thought perhaps the therapy had been unsuccessful just because the therapist had a romantic interest in her.

The reason Theresa has to wonder about whether her therapist provided her with proper therapy is that the therapist has competing interests sufficient to make her unsure that he did all he ought to do professionally. The same sort of problem arose in Friends and professional relations. Since both Paul and Mark belonged to AA, Paul was obligated to help Mark when Mark needed it -- just as Mark was obligated to help Paul. But the professional role and the role within AA can get easily mixed so that Mark may have some reason to wonder whether, in calling Paul because of their AA connection, he would be getting the best help Paul was capable of giving. After all, Paul is likely to resent being at Mark's beck and call when they already had an established relationship, with set times for appointments. Just so, we must wonder whether Theresa's therapist really did the best job he could do for Theresa. If his romantic interest blossomed before the therapy ended, then he would presumably be acting in that interest to ensure that, whatever else happened, she be available for him. That might cause him to end the professional relationship prematurely, for instance. If Theresa was seeing him because of problems with her husband, his romantic interest in her may have caused him not to help her as much as he could to sustain her marriage. We do not know, but we do know that the therapist put himself in a position where Theresa had to wonder about such possibilities and about his commitment to helping her.

A similar sort of problem could hold in Can you help me now? -- though the difficulty can best be seen from the client's point of view. The client needs help and would have gone to Martha except that Martha was now her client, seeing her for massages. So the client might have been concerned that if they reestablished their old professional relationship, she would not be able to keep the new one because Martha would be unwilling to see her as a client while still getting massages from her. Her interest in retaining her former therapist as a client -- perhaps just because she needs the money -- is at odds with her interest in seeking help from the therapist. In addition, she will again be in a dependent position vis-a-vis her therapist after having been the expert in giving massages.

### **c. Conflicts of interest**

These three cases have in common that the relationships in which the professionals are in have produced potential conflicts of interests that put at risk their capacity to perform their professional obligations. People often have more than one reason for doing something. The only concern we have is whether harm occurs if one interest comes to predominate and causes unnecessary harm to the client. If Paul prolonged Mark's therapy only to get more money, refusing to see him for free through their AA connection, that would conflict with the interest Mark has as a client in having Paul help him work through his problems expeditiously and with the least expense possible.

In Friends and professional relations, Mark created a situation where conflicts of interests can occur, and that is also what happened in the other two cases. In *Can you help me now?*, Martha created a situation where her interest in receiving a massage from her former client conflicted with an interest she ought to have in being available in case her client needed her again. This latter interest arises because once a professional has seen someone as a client, that professional is usually better positioned than anyone else to help the client again. The professional has presumably earned the client's trust and knows what problems the client had and may continue to have, what has been done to help, how the client has responded, and how the client is likely to respond to new treatment. By initiating a new kind of relation with the client, the professional may make it difficult, if not impossible, for the client to seek the best help available should help be needed again.

Theresa is unable to go back to the therapist whom she first saw. By initiating a romantic relation with Theresa, the therapist should make Theresa wonder if she got the best treatment possible while in his care. In addition, Theresa is now unable to go back to him for help because of the loss of trust in the relationship as well as her feelings of guilt and shame associated with the therapist. Her inability to return to the therapeutic relationship with him harms her because he may be the one best positioned to help her. He saw her through the initial stages of treatment and so is presumably better able to understand her problems than someone might be who would begin completely ignorant of her past. The relationship of implicit trust that ought to mark a professional relationship has been lost -- as it was in each of the three cases we have just examined.

Cases like that involving the therapist in which a professional and a client have a sexual relation, either during or after their professional involvement, pose a special sort of ethical problem. But as the case involving Martha makes clear, being vulnerable in a power relationship arises even where sex is not involved. A therapist who calls a plumber to help with a flooded basement may be taking advantage of a professional position if the plumber is a client. The plumber is right to be concerned that the quality of the therapy may be affected if the work is not done to the therapist's satisfaction. Social workers may terminate services or withhold benefits, and their power to affect their clients in those ways may cause clients to be timid, fearing loss of benefits if thought too assertive of their rights. Professionals have immense power over clients, and clients are thus especially vulnerable.

The cases we have just considered are object lessons in how that power may affect vulnerable clients. In therapeutic relationships, for instance, the quality of care received may well depend upon the perceptions the client has of the professional's concern. If the client thinks the professional is interested in the client for other than professional reasons, then the care received, even if it were appropriate, may not be taken to be appropriate and so fail to achieve its end. Even if you as a professional do what you ought to do, others may question whether you did as much as you ought to have done or whether you did it as well as you should have. Appearances themselves can cause harm, that is, especially in thera-

peutic relationships.

#### **d. The obligation to serve a client competently**

A professional has an obligation to ensure that a client is competently served. A professional mapmaker, for instance, has an obligation to draw a map correctly so that those using it are not led astray, turning left when they should be turning right, for instance. Such obligations to be competent are the minimal obligations of a profession. The professional is a professional only because he or she has special knowledge -- of how to draw maps accurately, or of how to help substance abusers. Clients have a right to expect that that knowledge will be used to help them.

As we have seen, the harm that occurs when that minimal obligation to help is not fulfilled can be enormous. In *Friends and professional relations*, Mark found himself unable to turn to Paul for help when he needed it. The Code of Ethics states that

Social workers should take reasonable steps to avoid abandoning clients who are still in need of services (1.16(b)).

With nowhere else to turn, Mark had a relapse. In *Can you help me now?*, Martha's client felt she could not return to Martha for help because their relationship had changed in a way that, the client apparently thought, prevented Martha from having a proper professional relationship with her. And in *Having sex*, Theresa had to wonder whether the therapy she received failed because the therapist was more interested in pursuing her than in pursuing her therapy. In each case, it can be questioned whether the professional fulfilled the minimal professional obligation to help and to promote the client's well-being.

Since the appearance of a conflict of interest can itself cause harm, professionals have a special obligation not to put themselves in situations where there are potential conflicts of interest. In *Friends and professional relations*, Paul had a special obligation, before sending Mark off to AA he himself went to, to work out something with Mark that would have allowed Mark the help he needed. Even at the end of a professional relationship, a professional cannot know whether a client will have need of the professional again. Because that professional is usually best positioned to provide help if it is needed again, special care needs to be taken to ensure that such care can be available. Paul and Martha had obligations, that is, to anticipate the kinds of concerns their clients would have given the potential conflict of interest. It is this same concern that ought to make us uncomfortable even if Theresa's therapist were only to have sought her out for friendship several months after the therapy ended.

#### **e. Reciprocity and obligations in a professional relationship**

In tracking the kinds of harms that can occur in having more than just a professional relationship with clients, we have concentrated upon the minimal obligation social work practitioners have to use their special knowledge to help clients. Our aim has been to illustrate the complex and various ways in which we can fail in fulfilling even that minimal condition. That is, even if we thought social workers had few ethical obligations to clients, they could still face complex and varied ethical problems. For even the simplest of ethical obligations can give rise to difficult ethical issues.

But there are other obligations that are also minimal conditions for proper practice -- to tell the truth, to treat one's clients fairly, to encourage self-determination, and so on. We have examined some of these in the various cases we have so far discussed. For instance, in *Doing what the judge orders*, John manipulated the situation so that, he thought, he would not have to inform his client, Al, of what he was doing, thus denying Al his autonomy. And in *Adoptive children*, Dena did not tell the brother and sister what she knew about their natural parents, and one issue was thus whether she was treating them in the same way she treated other adoptees.

In each of these cases, as in the cases we have just examined, what is at issue is what harm is being done, and what these cases tell us is that social work practitioners have a set of *prima facie* obligations they ought to fulfil, obligations, that is, they ought to fulfil unless weighty moral reasons obligate them not to fulfil them. For the failure to act on a professional obligation will cause harm. In short, the ethical life of a social worker is even richer -- and so more complicated -- than we have so far suggested. Each obligation social workers have -- to encourage autonomy, not to cause harm, to treat clients fairly, and so on -- can give rise to ethical problems as complex and varied as those we have been considering in regard to the minimal obligation of social workers to use their special knowledge and skills to help their clients.

## **f. Drawing boundaries**

But every relationship brings with it reciprocity. If you are discourteous to me, you make it that much harder for me to be courteous to you. Just so, clients have obligations to those professionals who are committed to helping them. Mark is obligated not to call Paul late at night except under very special circumstances, and Paul may rightly object to Mark's calling provided they began their relationship by Paul's setting boundaries for their relationship that excluded such behavior.

Drawing clear boundaries can be difficult, however, and a therapist, for instance, can be faced with a need to make a delicate judgment. Consider the following case:

### *3.8 Gift for services*

Jane is in therapy with Marie and has been diagnosed as having Post Traumatic Stress Syndrome. She is thirty-five and has a history of sexual and emotional abuse by her father and her stepfather. After her grandmother died, she became extremely agitated because she was emotionally close to her. She told Marie that she would like to give Marie a gift from among her grandmother's belongings.

Marie told Jane that she does not accept gifts. Jane was upset, and after some cajoling by Jane, Marie told her that she would accept a gift only in exchange for the time spent in calls with Jane between therapy sessions.

Jane came in the next week with seven of her grandmother's belongings and put them on the desk. Marie told her that she could not take all seven and asked Jane to pick one. Jane insisted that Marie pick out what she wanted, but Marie told Jane that Jane had to select one gift.

Jane picked out a vase, and Marie displayed it in her office. Marie looked at the vase when she came in for her next session and expressed pride at seeing it there. Jane does not know the vase's value and is afraid it may be very expensive. She is thinking of having it appraised and if it is expensive, crediting Jane for a num-

ber of therapy sessions.

If we take the first step in our model and try to understand why Jane is doing what she is doing, we find that we need not get too deeply into psychoanalytic theory to sense that Jane is trying to transfer affection from her grandmother to Marie. It appears that Marie may no longer be just a therapist for Jane, but someone who will be for Jane what her grandmother was. The gift then becomes symbolic, a way of associating Marie with the grandmother. Marie has a responsibility to discuss the meaning of the gift with Jane.

That this may be the correct reading of what Jane is doing puts Marie in an especially awkward position ethically. On the one hand, if she refuses the gift and the gift is symbolic, rejecting it would be construed by Jane as rejecting her. Jane may think she is only valued when she gives something, and so refusing the gift may harm Marie's capacity to help Jane. On the other hand, accepting the gift may encourage Jane to think she is only valued when she gives a gift. It also may encourage her in thinking Marie is to take the place of her grandmother. Yet transference is sometimes a good thing, helpful to both therapist and client. So Marie has a dilemma, with unclear and perhaps harmful consequences no matter what she does. Her goal, presumably, is to help Jane without having to take the place of Jane's grandmother, and she does two things to further that goal.

First, she insists Jane pick out what she wishes her to have. If Jane gave Marie something Marie wanted, Jane might think that Marie owed her in some way. Marie is trying to maintain the proper professional relationship by insisting that Jane pick out the gift.

Second, Jane refuses to accept the gift as a gift, but insists that she will take it as payment for the time spent in calls with Jane between sessions. That insistence tells Jane that whatever she may wish to think, the gift is not symbolic and will not change their professional relationship. It also tells Jane that the time between sessions is marked by their professional relation. Marie is telling Jane that despite the loss of Jane's grandmother, the relationship is to remain what it was. Marie's deciding to have the gift appraised and to credit Jane with a number of therapy sessions if it turns out to be particularly valuable is a further indication of Marie's concern to maintain professional boundaries.

But Marie broke her rule about not accepting gifts. In breaking that rule, she may have encouraged Jane to think the relationship more than professional. Without more details, we cannot be sure whether Jane made the proper judgment in breaking her rule, but we can see how drawing the lines she ends up drawing will further her goal of helping Jane without being drawn in by Jane's desire to have Marie take her grandmother's place. It looks, at least, as though Marie has succeeded in drawing a line that will minimize potential harms -- although we would have to find out what happens afterwards to see if that is really the case.

Sometimes drawing lines seems as though it should be no problem at all. Consider the following case:

### 3.9 *A social visit*

Susan was a 13-year-old in therapy with Diane. She had been sexually abused by her father and diagnosed as having Post Traumatic Stress Disorder. Diane had heard that she had gone out socially both with her Protective Services worker and with the prosecutor of the case against her father.

Therapy terminated when Susan had a baby and moved out of town. She came back in a year with a second baby and called Diane, asking to see her at her mother's house. She said she especially wanted Diane to see the babies. Diane tried

to arrange to see Susan at the office, but that did not work out and Diane went to visit her at her mother's.

Diane happened to mention that she would be driving to Florida for a vacation in a few days, and Diane begged her to drive her to Georgia on her way so she could visit one of the baby's father. Diane refused, and the situation became extremely uncomfortable.

Diane has not heard from Susan again.

Individuals with Post Traumatic Stress Disorder have a tendency to encroach on boundaries, and Diane's going to Susan's mother's made it easier for Susan to ask for a ride - a clear violation of boundaries. Susan was apparently reaching out for Diane in some way, and Diane's refusal to help in the way Susan wanted help apparently cut off a chance to continue a professional relationship that Susan may need. But this is a case where the former client was taking advantage of the professional relationship and where Diane should have insisted on seeing Susan in her office.

### **g. Virtues**

We have concentrated in these past few cases upon ways in which a relationship between a social work practitioner and a client can go wrong, but in doing that, we are relying upon an understanding of what makes the relationship right. But determining what such a relationship ought to be is a complex ethical undertaking. At a minimum, a practitioner ought to be fair, honest, dependable, competent, trustworthy, and attentive. These are virtues, character traits that social work practitioners ought to display in their relations with clients as well as with colleagues and others with whom they have professional relations. We can thus readily imagine ways in which practitioners could fail to do what we all presume they ought to do just in the normal course of their work -- by failing to meet some of these criteria for their professional relationships. They can fail to listen carefully to what clients are saying, spread around what was told in confidence, neglect to do what they told clients they would do, fail to establish boundaries, fail to provide needed information for some social service, treat some colleagues differently from others for no good reason, and so on.

Yet even if practitioners display the appropriate virtue, they may fail to display it in the right way. It is not easy doing what we ought to do in just the right way, at the right time, with the appropriate manner, and with all the other features that make things go well. The ways in which we can fail to attend just to what a client is saying are too numerous and diverse to list. Leafing through papers while a client is trying to talk, or looking constantly at your watch, are obvious ways to be inattentive, but it is equally inappropriate to concentrate so hard on what your client is saying that the client becomes uncomfortable with the intensity of your concern. That would be as inappropriate as giving all your time to a client, no matter what the client had to say, to the detriment of your other concerns. Being virtuous is a skill, and we must find the right way to be virtuous. We must learn how to listen appropriately, how to provide information that a client can and will make use of, how to set appropriate, clear and culturally sensitive boundaries, how to seek guidance from colleagues without breaking a confidence, how, in short, to do just what is right.

The situation practitioners face can be complicated because clients can fail to meet the criteria for a professional relationship. We do not often think about the ways in which a client can fail to live up to the demands of a professional relationship, but patients who refuse to take the medicine their physicians prescribe can cause enormous problems for the

physicians as well as for themselves. The same is true for a social work practitioner's client who encroaches on the practitioner's boundaries or fails to do what needs to be done -- by not coming to meetings when scheduled or by failing to fill out forms properly.

The inexperience and failures of clients put additional pressures on social work practitioners. Because they are in the position of power, and presumably have experience about how relationships can go wrong, they have a special obligation to ensure that the relationship goes well, taking special care to encourage the right sorts of responses and to empower clients to act in their own self-interest. Some general features of the system, or some feature of the social work practitioner, may have discouraged a client, and the practitioner then has a special obligation to change whatever it is that is causing a client not to get done what is needed. After all, if the goal is to help a client, and the client is not doing what needs to be done to get help, the social work practitioner's goal has not changed. Achieving it has just become more complicated.

#### **h. 'Recalcitrant' clients**

Special problems arise when a social work practitioner thinks a client is making a mistake and, despite the practitioner's urging, refuses to do what the practitioner recommends. In *Having sex*, Theresa refused to bring charges. What ought a professional do when the client declines to act on a matter the professional thinks requires action? Is it appropriate for the professional to act on behalf of the client? Or, as in *Having sex*, is it appropriate for the therapist, Mary, to take action if the client does not? Mary is apparently assuming that if Theresa were to bring charges, Theresa would not be harmed by any backlash that might result from attacking the therapist or that any backlash that may result is worth risking to prevent potential harm to other clients from this therapist. What we need to do is to apply our method and ask what Mary's goals are and what they ought to be.

Mary seems to have the goal of ensuring that the therapist is in some way punished for his behavior with Theresa. She may be right that Theresa will not be harmed by bringing charges. It may even be that Theresa will benefit by doing that. But it is notoriously difficult to predict the consequences of any particular course of action, and Mary cannot be sure that harm will not occur to Theresa if Theresa brings charges. Indeed, harm would occur because Theresa has made it clear that she wants to put the issue behind her. In pursuing it, Mary is denying Theresa's expressed wishes and so denying her self-determination. In addition, Theresa does not want her husband to know about the affair, and it is difficult to see how he would not find out about it were Marie to bring charges.

Mary's goal ought to be to help Theresa and to ensure her well-being. She thus has an obligation to assist Theresa in coming to understand that it was her therapist's obligations to set boundaries, not hers, and an obligation to help her heal from the trauma of the affair. For Mary to pursue the therapist is for her to pursue her own agenda. It certainly would not further Theresa's self-determination, and it may cause further harm to Theresa. That clearly does not further what ought to be Mary's goal of helping Theresa.

*Having sex* is marked by the social work practitioner trying to convince the client to do something the client does not want to do. The same sorts of ethical problems can obviously arise when a client wants to do something the practitioner thinks the client ought not to do. Consider the following case where the therapist tries to discourage a client from testifying, in part, the therapist claims, for the client's own good:

#### *3.10 Hurting oneself*

Annette had been seduced by her former therapist. She is mentally ill and prone to extreme shifts in mood, but is consistently angry about her former therapist. She wants to pursue the case, take him to court, and see that he does not harm anyone else.

Her new therapist is concerned that Annette will hurt herself by pursuing the matter, that she is fragile emotionally and will regress psychologically. Such cases are notoriously difficult to prosecute, and pursuing it will put a great stress on her when she is already very unstable. Besides, the therapist is not convinced she will be believed, but thinks she will lose the case and lose what progress she has already made. So the therapist encourages her to drop the case.

The therapist is judging, rightly or wrongly, what is in Annette's best interests and is trying to convince her not to do what she had clearly said she wants to do. A professional's concern that a client become capable of self-determination sometimes requires that the professional make judgments he or she thinks the client ought to make. But these judgments are justified only if they arguably make the client more capable of self-determination. The therapist's advice is just advice, that is, and we must determine whether it is good or bad advice by determining what is in the best interests of Annette.

Our model tells us that we need to weigh the alternative courses of action. In this case, we are weighing them to see what course of action will best enhance the self-determination of a client. Will Annette be better or worse off, in the long run, to pursue the case against her former therapist? What is at issue here is how to weigh the goods involved. On the one hand, good may come to Annette in fighting the case so that she will feel she has not been completely passive in response to what happened, and if she wins, she will gain a feeling of power and accomplishment. On the other hand, good may come from putting that part of her life behind her and getting on with the rest of it.

Her present therapist urges her not to pursue the case because such cases are hard to win even with clear evidence and a clearly competent victim, and they put great stress on those pursuing it, even if they are emotionally strong. Even in the best of situations, someone seduced by a therapist would have a hard time making the case, and he thus thinks she would have a hard time -- too hard a time, given her emotional state, to make it worthwhile. To come to that advice, he ought to weigh all that against the presumed advantages of success -- Annette's need to express her anger and the feeling of accomplishment a successful prosecution would bring. He ought also weigh the possibility of a compromise position, bringing the suit with Annette's understanding that it is not likely to succeed, because it does not often succeed in the best of cases, but that it is worth pursuing so that she can feel she has accomplished something in regard to her former therapist.

Unfortunately, this is a problematic case, one in which we simply cannot know, ahead of time, which is the best course of action for Annette. The therapist is judging that it is better for her not to pursue the case, and we should give his voice significant weight because he must be presumed to be in a better position than we are to judge. He knows Annette better than we can and is better positioned to assess how well she would handle the stress of bringing the case and the emotional loss should she lose it. But the decision is Annette's, presuming that she is competent enough to make a decision, and so the therapist ought to realize that he is in an awkward position ethically -- encouraging her to do something she has said she does not want to do, and thus at the least failing to encourage her self-determination, when he cannot be completely sure what will happen whatever she does.

Of course, Annette may not be competent to make a judgment about what is in her best interests. What the therapist should not do, certainly, is to declare her incompetent to pursue the case because he does not think she should. What he should do is try to determine independently whether she is. The fact that she wants to pursue the case is no more evidence of her incompetence than Dorothy's refusal to seek treatment for her rectal cancer was evidence of her incompetence to make such a judgment in *Depressed and ready to die*.

His goal must be to do good for Annette, and so, where we do not have enough evidence to know quite what judgment to make, or where, as in *Refusing help*, we do not have enough time to gather evidence, we must make reasonable presumptions. Just as, in that case, what we thought appropriate was dependent upon what presumptions we thought appropriate, in the same way, making judgments in this case is dependent upon presumptions we make -- about Annette's mental state, about what is more or less likely to produce good or to cause harm, and so on. If we presume that she is able to bounce back readily from adversity, we will be far less likely to discourage her suing her former therapist than we would be if we presumed her on the edge of a further breakdown, unlikely to survive failure. The issue is what presumptions ethics requires us to make, and the general stance must be that we should presume whatever will cause the least harm and the most good. Unfortunately, we do not have enough information to know whether there is a clear answer in this case.

#### **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, which-

ever 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 be-

cause 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.

## Questions

- (1) Provide an example, out of your own experience, of you or someone else having done something that was less than voluntary. Less than fully informed? Less than fully competent?
- (2) In 1.2 *Dancing a legal dance*, compare Mary's explanation for why Martha was running away from home with the alternative we provided. Do any of the differences turn upon a judgment that Mary is uninformed about something, or acting involuntarily in some way, or is incompetent in some regard? Remember in answering this question the first step in the method of tracking harms. Did Mary try to understand why Martha was running away from home?
- (3) In 1.4 *Doing what the judge orders*, was John fully informed when he decided to go to his supervisor to get Al tested? If he was not, what more did he need to know, or did he know enough even if he was not fully informed? If he was fully informed, was he acting voluntarily or was he in some way coerced by, say, Al's mother threatening her social worker if Al found out she was HIV-positive?
- (4) What is wrong with lying? Suppose no one ever finds out: what is wrong with it then, if anything? Suppose it does some good for the person to whom you are lying: what is wrong with it then, if anything? Are there circumstances in which it may be ethical to lie? Give reasons for your answer, one way or the other.
- (5) By telling the wife that in order for the husband and wife to be in a mutually respectful marriage, he would tell the husband if she does not, Mohammed would be encouraging self-determination by denying it. Discuss whether that is always wrong.
- (6) Give two examples of how self-determination conflicts with other social work values besides those used as examples in this section. Examine each conflict and assess how it is to be resolved ethically.
- (7) What are some obligations social workers owe to their clients? Give four and provide examples of each drawn from the cases we have examined and your own cases.
- (8) A client someone might think recalcitrant may be exercising self-determination. All the issues that arise regarding clients who do what others may consider signs or even proof of lack of self-determination -- as, for instance, Dorothy in 3.2 *Depressed and ready to die* -- arise regarding so-called recalcitrant clients. Give an example from your own experience of someone you thought recalcitrant and explain why you found them recalcitrant. Were they incompetent? Ill-informed? Acting involuntarily? What would need to be true about them for them to be exercising self-determination but making a decision you would not have made? (You should apply the first step in the method here.)
- (9) Pick one of the virtues of social workers and explain what it requires a social worker to

do regarding clients and colleagues.

- (10) Drawing boundaries is difficult in any relationship. Give an example of a problem you have had with a friend or relation regarding boundaries. Discuss the pros and cons of how the problem was settled or ought to have been settled.
- (11) What interests are in conflict in 3.5 *Friends and professional relations*? Whose interests are they? What could be done to prevent the conflict? Would it be enough for Paul simply to follow the Code and inform Mark of the potential conflict? If so, why? If not, why not and what else should Paul -- or Mark -- do?
- (12) Deciding to provide 'a foster home for the entire family,' as Carrie says in 3.14 *Caring for the family*, would require significant changes in existing policy. Discuss the pros and cons of making such a change. In doing this you should consider whether it is always good to keep a family together, whether concentrating upon a family may mean losing sight of individuals, and so on.
- (13) We sometimes come to have information we would have preferred not to have. That was Tamara's situation in 3.12 *Automatic assignments*. Look back over previous cases we have examined and pick one where the social worker also is privy to information that creates ethical problems. Discuss.
- (14) Having more than one client in a single case can create problems because the clients' interests may compete with one another. This sort of situation is not unusual, how ever. Every parent with more than one child faces this kind of problem regularly. Give an example from your own experience of where you have had responsibility for two or more individuals whose interests have competed. Consider how one is to settle such matters in a way that causes the least harm.