Ethical Considerations in Child Abuse and Neglect Cases

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Disclaimer

Nothing in this course is meant to supersede local, state, or federal law or your agency’s policies and procedures.
B.A. from Eastern Washington University

- 30 + years Law Enforcement
- SWAT Team, TAC Team, FTO, 9 years as Academy Instructor in Interviewing and Defensive Tactics
More Me!

- Detective for over 15 years.
- Original member in Major Crimes Special Victim’s Unit since 2002.
- Explosive Disposal Unit since 2007.
- Vice President of American Professional Society on the Abuse of Children National Board.
- Member of Institute on Violence, Abuse and Trauma Advisory Board.
An **Ethical dilemma** is a complex situation that will often involve an apparent mental conflict between **moral imperatives**, in which to obey one would result in transgressing another. This is also called an **ethical paradox** since in **moral philosophy**, paradox often plays a central role in ethics debates.

Wikipedia
What do you do? What do you encounter in your field?

- CAC Interviewer
- CPS case manager
- Attorney
- Psychologist
- Psychiatrist
- Law Enforcement
- Attorney
Strategies

- What strategies do you employ when working with professionals in other fields of child maltreatment who have different ethical standards or priorities than you?
- Examples?
Ethical Principles - APA

American Psychological Association

Ethical Principals of Psychologists and Code of Conduct

5. Privacy and Confidentiality

- 5.01 Discussing the Limits of Confidentiality
- 5.05 Disclosures
- 5.06 Consultations
Law Enforcement Code of Ethics

- Whatever I see or hear of a confidential nature, or that is confided in me in my official capacity, will be kept secret unless revelation is necessary in the performance of my duty.

- I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals...
Law Enforcement

- Law Enforcement purpose is to:
  - Determine if a crime has been committed.
  - Do a thorough investigation
  - Forward case to prosecutor
  - Follow case law and policies
  - Avoid any conflicts of interest
Law Enforcement Ethics

- Work quickly, work safely.
- Don’t disclose information about active investigations
- Know what information you can share and who you can share it with.
- Impartial with no conflict of interest
Ethical Principles - NASW

National Association of Social Workers

Ethical Responsibilities to Clients

- 1.03 Informed Consent
- 1.04 Competence
- 1.06 Conflict of Interest
- 1.07 Privacy and Confidentiality
Child Protective Services

- CPS purpose is to
  - Gather initial investigative information on the complaint
  - Make contact within 24 hours if case is emergent
  - Set up face to face safety check within 72 hours
  - Investigate if there are abuse or neglect issues in the home/day care/other licensed facility
Ethical Principles - ABA

- American Bar Association
- Center for Professional Responsibility
- Model Rules of Professional Conduct
- Rule 1.6: Confidentiality of Information
- Rule 1.7: Conflict of Interest: Current Clients
Scope of Representation & Allocation of Authority Between Client & Lawyer

- ...a lawyer shall abide by a client's decisions concerning the objectives of representation...
  Rule 1.4, shall consult with the client as to the means by which they are to be pursued.
  client's decision whether to settle a matter. (b) A lawyer's representation of a client, including
  representation by appointment, does not constitute an endorsement of the client's political,
  economic, social or moral views or activities.
Criminal Representation

- In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.
Client Criminal Behavior

- A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.
...shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph...
Attorney may disclose 1.6

- may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
  - (1) to prevent reasonably certain death or substantial bodily harm;
  - (2) to prevent the client from committing a crime
Scene from a few good men about whether to plea bargain or go for the not guilty
Ethical Principles – APA, cont.

American Psychological Association

Ethical Principals of Psychologists and Code of Conduct

- 7.02 Forensic Assessments
- 7.03 Clarification of Role
- 1.17 Multiple Relationships
Who is the Client?

- Is it the child?
- Is it the parent?
- Is it the system?
I hate to break it to you, but we can't get any farther south for the winter...

When penguins retire
Mother brings an 8 year old female into Bigtown police station & reports possible sexual abuse by the stepfather. Mother and stepfather are now divorced. The incident happened approximately 6 months ago when they all lived together in Smalltown in a different county than where the suspected abuse was reported. The child is taken for a physical examination and there is no evidence that a sexual assault did occur.

The Bigtown Detective assigned orders a forensic interview at a local CAC and the girl provides a very detailed disclosure. The Detective then contacts the Smallville Police Department, who has jurisdiction. She presents the evidence collected so that the investigation can be completed and possible charges can be pursued. The officer in that jurisdiction explains he knows the step father & doesn’t believe he would do such a thing. He comments that he doubts he will follow up on the information since the child no longer lives in his jurisdiction.
Scenario

An adult male client is seeing you for anger management issues. He discloses that he sometimes hits his wife, but that she has never been seriously injured. They have two children who witnessed these events.
Scenario

A 12-year-old girl comes to you crying. When you ask her what is wrong, she hesitates, but then tells you that her step-father has been coming into her bedroom at night while her mother is asleep.
Add Liar Liar video clip of bathroom self-assault and courtroom explanation
You are a general practice attorney. A twelve year adopted old boy is accused of inappropriately touching his foster-sibling. The parents come to you asking you to represent the boy in the criminal proceedings.

Allegations come out during the investigation that the boy has been molested by his adopted parents.

The parents ask you to represent them in their criminal proceedings as well.
Scenario

Regional CPS manager will testify at custody hearing that well-known therapist’s interpretation of child’s drawing/behavior is valid and that department will substantiate sexual abuse by father. Investigator is subpoenaed to testify for the father and has found no credible evidence father abused child. CPS manager has told worker not to testify “for the defense”.
Scenario

Detective was assigned a child fatality investigation. The child was less than 3 years old. During the investigation the detective learns the biological mother works 3 jobs & is the sole provider for the family. Step father watched the child while mother worked. Mother took the child to the ER on several occasions. Step father stated the injuries were sustained from playing or falling off the bed. Until the sudden death of the child, mother believed what husband told her due to the fact that the child’s injuries were consistent with his stories. ER personnel never checked prior medical information and there were no red flags raised, due to the fact these injuries could have occurred as the step father reported. Mother was somewhat suspicious, however since medical personnel never inquired about cause of injuries, she believed it happened like the step father said.

Investigation resulted in step father being prosecuted. District Attorney wishes to prosecute mother as well. Even though she did not commit the crime herself, DA believes she had the responsibility to protect.
Scenario

Your 10 year old client is saying that he wants to kill himself, and that he will take a bunch of Tylenol when he gets home. After discussing with your supervisor, you arrange for the child to be seen for an intake for inpatient services immediately. The parents do not think that this is necessary and state that they are going home with their son.
Add liar liar courtroom victory
Remember, it’s not what you go through, it’s how you go through it.
Know the rules and do what is right

Before

After
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