Counseling & Confidentiality: What You Need to Know

Understanding confidentiality in a counseling relationship should reassure officers about pursuing professional therapy – counselors take issues of confidentiality as seriously as officers take their oaths

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The decision to seek mental health counseling can be a difficult one. Issues of pride can be an obstacle, especially for officers, because the appearance of weakness or being ineffective in their problem-solving abilities may elicit feelings of shame or inadequacy. This problem is not uncommon. The aversion to feelings of vulnerability hinders many people from getting professional help – it can be difficult to admit problems out loud to another person.

During our combined 22 years working in the mental health field and specializing in treating law enforcement, we've found it typically takes officers an extended period of time to overcome these issues. Sadly, many officers never get the help that they need and deserve. For those who do decide to seek counseling, the results are often life changing. The first major step in starting counseling is to understand and trust the concept of confidentiality.

What is Client Confidentiality?

Before starting counseling, officers are often concerned about issues of confidentiality. They are accustomed to dealing with sensitive information, so are understandably leery about trusting others with their personal information and private emotional struggles. Many are worried that what they disclose to counselors has the potential to jeopardize their careers.

Client confidentiality has both legal and ethical aspects. Counselors and other mental health providers are bound by professional oath, personal ethics and legal licensure to uphold confidentiality. This means that counselors are legally restrained from disclosing information that was shared within the protected client-counselor relationship. Breaking confidentiality could result in a counselor losing his or her license, so they take issues of confidentiality very seriously.

In addition, the Health Insurance Portability and Accountability Act, also known as HIPAA, is a series of laws that protects people's personal health information, including mental health records. Any medical health professional that violates HIPAA could face civil or possibly even criminal penalties.

Confidentiality exists in a voluntary counseling relationship so people feel safe in sharing sensitive information and getting the help, support, tools and relief they need. However, there are several things officers should know about confidentiality before starting counseling.

Understanding the Specifics of Confidentiality

Confidentiality policies can differ from practitioner to practitioner, so its important officers thoroughly understand their counselor's specific rules of confidentiality. When a person begins a counseling relationship, they must first complete intake paperwork. This packet of information should include a few pages explaining what confidentiality is and what is expected of both client and counselor. If you don't receive such information, immediately find another counselor!

Officers should read this information thoroughly before signing anything. If you have any concerns about the contents of the paperwork, discuss them with the clinician immediately upon your first meeting. If you are not comfortable with the paperwork or the practitioner's response to your questions, you are always free to seek counseling elsewhere.

Clinicians should always disclose their policies so both parties understand the issues of confidentiality. Only when both parties are informed can they willingly choose to engage in a therapeutic relationship. In order for a counseling relationship to be successful, mutual understanding and expectations should be in place. As a client, you should feel that your information is as secure as possible.

When Can a Confidentiality Agreement be Broken?

Although individual counselors or groups may have slight variations in their specific views of confidentiality – which is why you should read the intake paperwork – there are generally only six reasons a counselor can legally break confidentiality:

1. **Self-harm.** If a client is actively suicidal and shares this information with a counselor, the counselor must reach out and seek help to get the client immediate resources to save his/her life.
2. **Threats of harm to others.** If a client discloses they have plans and intent to carry out harm against an identifiable person, the counselor must break confidentiality to protect that person.
3. **Child abuse.** If a client reveals that they are aware of child abuse, then counselors – as mandated reporters – are bound to break confidentiality and report a concern of abuse to the proper authorities.
4. **Elder abuse.** If a client reveals knowledge of an elderly person being abused, counselors are bound to report that allegation to the proper authorities.
5. **Billing.** Counselors may break confidentiality to submit your name and information to insurance or other sources for the purpose of being paid for their services. This should be discussed in the initial session to ensure no issues pertaining to payment will arise later.
6. **Subpoena.** This is very rare, but counselors can be subpoenaed by court to provide specific information about an officer who is directly charged with criminal or civil violations. Counselors can try to challenge the subpoena, which may have differing levels of effectiveness depending on the judge and/or specific state laws. If the counselor is compelled to hand over records, then it would typically include a copy of the intake paperwork, a summary letter of sessions attended and, in the worst case scenario, session notes.

One other common exception to confidentiality is when a counselor needs to consult with a supervisor or other licensed clinical counselor. The purpose of this disclosure is to help support the counselor in providing optimal treatment. If the counselor has this policy of internal sharing, it will be stated in the intake paperwork. Signing the agreement will be your consent for this to take place. It is crucial to know that clinicians who receive shared case information are also bound by confidentiality rules, so they should not discuss cases with other people at any other time.

If a client has concerns about disclosing information and whether it may fall in the above categories, they can test a counselor using "hypotheticals" (i.e., asking how the counselor would respond in imagined or theoretical situations). It can be helpful for a client to ask these kinds of questions before starting counseling to be sure a counselor is someone with whom they would like to pursue treatment.

Giving Permission for Counselors to Break Confidentiality

Other than the reasons above, when any person begins voluntary treatment, no one other than their counselor will have access to privileged information unless the client signs a Release of Information. This release should state what specific information a client is willing to have released and what specific person or entity can receive that information. This leaves the power of release up to the client.

Counselors may occasionally request permission from their clients to break confidentiality in order to help with treatment. This could occur when counselors want to converse with outside doctors or medical professionals to coordinate treatment. The most common occurrence of this is when a therapy client is getting medication prescribed and gives consent for the therapist and prescribing doctor to communicate directly. This helps both professionals access another layer of input about the client to be sure that their treatments are effective.

When clients want to involve their significant others in treatment, such as having their spouse speak directly with their therapist, then a release of information is also necessary.

If any of these situations occur, counselors should be transparent about breaking confidentiality. The counselor should discuss what issue is taking place and why breaking confidentiality is necessary (and refer back to the signed consent form, if needed). The counselor should inform the client of what steps will be taken and answer any questions the client may have.

Confidentiality is Different for Mandated Treatment

All the information above applies to voluntary counseling relationships. The situation is different if clients are mandated to treatment. In the case of law enforcement, this may occur if someone in the officer's chain of command recognizes the officer is struggling emotionally, but refuses to get help voluntarily. The goal is to get the officer support and tools so that he/she can return to previous levels of functioning on the job. This is leadership's way of supporting officers and making sure they are able to keep themselves, their fellow officers and the public safe.

When treatment is mandated, clients do not have full control over the release of some of their information. In these cases, the counselor will typically have a form similar to a Release of Information that allows the counselor to converse with the officer's supervisor. These communications will be limited and center on the officer's attendance, participation levels and generally whether or not he/she is making progress.

However, counselors should limit their feedback to supervisors and only give them basic information. For example, if an officer has been diagnosed with post-traumatic stress injury (PTSI) stemming from a work-related call such as responding to a child's death, the counselor does not have to report on the officer's thoughts and emotions or even the specific incident, but rather on whether the officer is actively participating in techniques to address his/her current stressors or symptoms.

Fitness for Duty Psychological Evaluations

In circumstances where an officer's behavior is seriously problematic, law enforcement agencies can request a Fitness-for-Duty Psychological Evaluation. This type of evaluation is not a counseling relationship and often includes psychological testing and an interview with a licensed psychologist who is objective and has no prior relationship with the officer being evaluated. The purpose of such assessments is to determine if the officer is capable of doing his/her job safely. A Fitness-for-Duty Evaluation should never be conducted by the treatment counselor, even if they are qualified to perform such evaluations.

Fitness-for-Duty Evaluations will include paperwork at the beginning stating that results from the evaluation will be shared with the officer's agency. This is possible because it is not a regular counseling relationship where confidentiality and voluntariness are two of the defining components. A Fitness-for-Duty Evaluation may have several different outcomes:

1. The officer is fit for duty and is able to return to work with no contingencies.
2. The officer may return to duty as long as they attend counseling to address their issues (which would then turn into a mandated counseling situation).
3. The officer is not fit to return to regular duty.

Confidentiality Should Bring Comfort in Seeking Treatment

Understanding confidentiality in a counseling relationship should reassure officers about pursuing professional therapy. Counselors take issues of confidentiality as seriously as officers take their oaths. Every professional counselor we know tries to release as little as possible about their clients to ensure confidentiality and protection of the client. We want to create a nonjudgmental and safe environment so that our clients feel free to express themselves, which is necessary for effective counseling. While counselors cannot guarantee that clients will always be comfortable in therapy, they should work hard to make sure they create a safe environment so clients can explore the difficult issues that trouble them.

About the Authors

Bernadette Bruha, *MS, MA, LPCC received her BA in Psychology from Duke University, MS in Criminal Justice from Saint Joseph's University and MA in Counseling from Webster University. She is currently a licensed professional clinical counselor in New Mexico. Bruha holds professional lecturer certification from the New Mexico Law Enforcement Academy for topics including mental health issues, crisis intervention, crisis negotiation and train the trainer. She is also a continuing education provider. She has worked in the field of psychology since 2004 with psychology-related research experience before that time. Bruha has worked for Public Safety Psychology Group for 13 years. Her initial counseling clientele was focused on the forensic population but since 2011 she has worked exclusively with first responders including police officers, firefighters, ambulance providers, dispatchers and their family members. She is a certified practitioner of Eye Movement Desensitization and Reprocessing (EMDR), which has been a helpful technique to help first responders work through issues of trauma.*

Andrea Watts, *MS, LPCC received her BA in Psychology from the University of New Mexico and her MS in clinical counseling from the University of Phoenix. She is currently in her fourth year of a Ph.D. program with Fielding Graduate University in clinical psychology with an emphasis on forensic and neuropsychology. Watts holds independent clinical licensure in both New Mexico and Colorado and she holds professional lecturer certification from the New Mexico Law Enforcement Academy. She is also a continuing education provider. Watts has been with PSPG for more than seven years and is currently a co-clinical director for its treatment team. As a clinician, Watts has worked with children and families with severe emotional illness (SMI), and offender populations including sexual offenders and incarcerated individuals, but her primary treatment focus is with law enforcement officers and their families. She has developed a strong expertise in trauma and couples work. Watts has been trained extensively in crisis negotiations, crisis intervention, mental health, interviewing and interrogation, competency evaluations, forensic treatment and assessment, as well as trauma treatments including Eye Movement Desensitization and Reprocessing (EMDR).*

QUESTIONS TO ASK AT THE BEGINNING OF COUNSELING

1. What is your experience working with law enforcement and other first responders? How many have you treated?
2. What is your exposure to the police culture? Have you ever been on a ride-along?
3. How is working with law enforcement officers different from and similar to working with civilians?
4. How long have you been practicing as a psychologist/mental health provider?
5. What is your general philosophy and approach to helping? Are you more directive or more guiding?
6. What kind of training and/or specialties do you have?
7. Who has access to my information?
8. If you need to break confidentiality, how do you handle the situation?
9. If you see me outside of the counseling office, would you acknowledge me?
10. What can I expect from counseling with you?
11. How often do you seek peer consultation or supervision?
12. What is needed from me to make progress in counseling?
13. What is a typical session like? How long are the sessions?