Ethics, Deception, and Resistance in Court Mandated Counseling

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Presentation Objectives

1. **Understand and utilize the unique ethical issues related to counseling court mandated, involuntary clients, especially limits of confidentiality and the ethical principle of client autonomy.**

2. **Recognize deception and resistance in counseling mandated clients and how to effectively navigate them with clients.**

3. **Apply and utilize effective counseling procedures with these types of clients.**

Court Mandated Counseling and can be required for various reasons:

As an alternative to jail time for minor crimes committed by individuals with mental illness or substance abuse history.

When a person's mental illness or addiction poses a risk to themselves or others.

As a condition of probation or parole.

In contested custody or visitation cases.

Goals of Counseling

Consistent with Court Order

Reduce recidivism

Diversion Programs

Drug Court

Anger Management

Reunification and Child Custody

Sex Offenders

Effectiveness as voluntary therapy: Yes.

Also cost effective

Ethical Considerations

Care versus control: an ambiguous line

Internal versus external motivation for treatment

Practitioners' personal values and biases: clients who have harmed others

Maintain respect for client autonomy

The practitioner is not simply a conduit between the court and freedom, they are a role model and an ally to assist the client in exploring what led them to COT in the first place. • Performing COT requires a tremendous amount of introspection and examinations of one's role as a practitioner.

The Four Main Ethical Principles

Beneficence: requires that we treat persons autonomously and refrain from harming them, but also that we contribute to their welfare

Nonmaleficence: do no harm

Autonomy: self-determination

Justice: involves the fair treatment of individuals and the equitable distribution of benefits and burdens

Self-Determination Theory about Change

Autonomy: self-direction and self-determination

Competence: skills

Relatedness: therapist and advocate

The Elephant in the Room

Transference and Countertransference (Freud 1910)

Not just in Psychoanalytic or Psychodynamic Therapies

Transference: the unconscious projection of past feelings onto someone else in the present. How someone reacts in the presence of authority, for example

Countertransference: refers to a therapist's unconscious or conscious feelings influenced by their patient

Deception in Court Mandated Counseling

Deception is resistance: Both are seen as methods of coping.

Deception: The act of causing someone to accept as true or valid what is false or invalid

Dissimulation: to hide under a false appearance:

Impression Management: the goal-directed conscious or unconscious attempt to influence the perceptions of other people.

Munchausen syndrome is a mental disorder where you falsify or exaggerate illness to get attention and sympathy.

Malingering: Malingering doesn't have any specific symptoms. Instead, it's usually suspected when someone suddenly starts having physical or psychological symptoms while being involved with a civil or criminal legal action

Resistance in Court Mandated Counseling

The unreliable client: cancelling sessions, arriving late, assignments not done

Rejecting coping skills, no follow through

The client who doesn’t talk

The client who only engages in surface-level talk

The client who blames everyone else

The client who flatters

Clarification

Clarify your roles as therapist at the beginning of therapy.

Explore any questions clients may have about your roles.

Resistance in Court Mandated Counseling
Motivational Interviewing

Motivational interviewing is an approach to overcoming participant resistance and promoting self-motivation by eliciting the participant's own reasons for resisting change and using a nonjudgmental, empathetic therapeutic style. Interviewers evoke the participant's own motivations for change through self-directed goals, drawing upon strengths, and emphasizing the client's responsibility for change.

Resistance in Court Mandated Counseling Motivational Interviewing

What doesn't work:

Persuasion: It is tempting to try to be helpful by persuading the client about: The importance or urgency of the problem being addressed; the benefits of changing a behavior

Righting Reflex: This is that strong urge to tell them the solution to their problem, because we feel we know what would work. It's that urge to make them "right", and to fix them. We may even feel anxious or worried about the client's behavior.

Instead of Persuasion and the Righting Reflex

- “Why don’t you try….?”
- “I think….”
- “What I would do is…“
- “You could try...”

Resistance in Court Mandated Counseling Motivational Interviewing

Five Principles

Express Empathy: Establish a collaborative and empathic relationship.

Develop Discrepancy: Highlight the discrepancy between current behavior and goals or values.

Roll with Resistance: Navigate around resistance rather than confronting it.

Support Self-Efficacy: Foster belief in the individual's ability to change.

5. Avoid Argument and Confrontation.

Resistance in Court Mandated Counseling Motivational Interviewing

Four Skills - OARS

1. Open ended questions: Questions not easily answered with a "yes/no" or short answer. Open-ended questions invite elaboration and thinking more deeply about an issue.

2. Affirmations: Statements that recognize clients' strengths. They build rapport and help clients feel change is possible. They often involve reframing behaviors or concerns as evidence of positive qualities. To be effective they must be genuine.

3. Reflective listening: Affirms understanding of the client's perspective and guides the client toward resolving ambivalence by a focus on the negative aspects of the status quo and the positive aspects of making change.

4. Summary statements: Reflection where all or part of the session is recapped to communicate interest and understanding. It is used to call attention to important elements of the discussion

Is the Sociopath Treatable?

In a nutshell, people with sociopathy may have little empathy and a habit of rationalizing their actions. But they do know the difference between right and wrong.

Psychopathy, according to Hare, involves no sense of morality or empathy.

Both may be classified as Antisocial Personalities.

There's no standard list of sociopath signs, but the signs and symptoms of ASPD include a persistent pattern of disregard for others

Treatable? Most juveniles and some adults

Case Examples

42 yo white female: court ordered counseling related to custody

34 yo AA male: court ordered therapy for stalking female flight attendant

52 yo white male: court ordered for substance abuse following a protection order

36 yo white male: court ordered twice for violating a protection order by his wife

“I don’t belong here; it’s my ex’s problem. The judge got it wrong.”

42 yo white female: court ordered counseling related to custody. Accusations by father of parental alienation of two minor sons.

Blaming others; rejecting assignments

Response quality resistance: “What I would do is.” Initially, mother accused therapist of attempting to interfere with her relationship. Use of empathy: couple attempting to get pregnant.

Attended sessions with her new male partner, divorced, no children of his own. He became a therapist’s ally principally because he was more “rational.”

Registered a complaint with the psychology board.

Result: mother relented and allowed father access to children.

“She kept giving me signals.”

34 yo AA male: court ordered therapy for stalking female flight attendant.

Blaming others; flattery

Smooth talker. Wanted to ingratiate himself. “You know I was a school-teacher. I always thought I would make a good counselor.”

Response style resistance: flattery, flamboyant, fastidious; evasive.

Non-compliant with treatment: incarcerated

“Yes, I like to drink to take the edge off.”

52 yo white male: court ordered for substance abuse following a protection order: verbally abusive toward wife and two teenage daughters.

Engages in small talk

Hardwood floor salesperson. Long hx with company. High yield; CEO overlooked his drinking, especially on long trips.

Response content resistance; discrepancy: How is it that you are able to be an accomplished salesperson and cannot control your drinking

On two occasions came to therapy intoxicated. Advocated him not driving.

Result: successfully completed treatment. Became a CAC.

“I just want to see my kids.”

36 yo white male: court ordered twice for violating a protection order by his wife

Rejecting skills, no follow through with assignments

Began therapy with statements about how his wife mistreated him, devalued him, and “got a better attorney.”

Judge ordered 3 sessions!

Violated: Waited for estranged wife at gas station. Continued non-numbered therapy sessions ordered.

Values clarification and discrepancies. “You would like….. And (never BUT) you violate the order.

Questions, Comments, and Answers

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Zur Institute: Motivational Interviewing

Thank you

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