

Brief Notes on a Reflective Seminar
Codes of Silence, Confidentiality, and Family Privacy:
Implications for the Child Welfare System
Hubert Humphrey Center, University of Minnesota
Held December 14, 2012

Opening Remarks: Esther Wattenberg

The history of Child Welfare reflects a persistent theme: the extent to which the public interest in protecting children intrudes on the rights of families to maintain a seal of privacy.

Caspar Weinberger, Secretary of Health, Education, and Welfare under President Richard Nixon (1973-1975), first alerted us, in Minnesota, to the privacy issue. His paper, at the dawning of the computer age, alerted the child welfare system to the issue of privacy rights of families.

Here in Minnesota, Senator Robert Tennesen spearheaded the importance of the civil rights of those families who encounter the investigation of a child welfare report of maltreatment of a child. (Senator Tennesen was in attendance and was formally introduced. At one point, he was asked how it felt to have his name mentioned thousands of times a year, as Child Welfare workers opened an investigation.) His colleague, Senator Allan Spear, an expert on protecting civil rights, noted that it was the protection of the rights of the family that is at the heart of what became known as the Tennesen Warning, later known as “the Tennesen Notice.”

As we meet here today, the issue of privacy has claimed the attention of those at the highest levels of our public life (General Petraeus, head of the CIA and his exposed affair with his biographer), as well as those who are at the bottom of the scale (the impoverished mother seeking public assistance on condition that she identify the father of her child).

Breaking the privacy seal of the family has cultural implications. The concept of governmental investigation of a maltreatment report of a child is particularly not well understood by immigrant families. Families who come to the U.S. think of the U.S. as a place of protection from the intrusive arm of government. They may not realize that child welfare workers can break the privacy seal of the interior life of a family.

We are living in a culture with a diminished sense of privacy [see [CW 360](#), *Child Welfare and Technology*, Spring 2011]. Cell phones, collections of personal data, the availability of personal information on Facebook and Twitter are extant.

The issue has not escaped policy and practice in Child Welfare.

Family Privacy and Practice

To introduce us to the implications for Practice, when the privacy seal of families has been broken, we turn to **Professor Ronald Rooney**, faculty member at the School of Social Work, University of Minnesota.

Professor Rooney’s research on involuntary clients has claimed the attention of policy and practice scholars, both nationally and internationally.

[Professor Rooney's Powerpoint Presentation, "Acknowledging the Privacy and Involuntary Status of Families in the Child Welfare System: How Should Practice Respond to 'Codes of Silence and Secrets' Held within a Family," is available at:
http://www.cehd.umn.edu/ssw/cascw/events/past_events/codesofsilence.html]

Involuntary Clients and the Privacy Seal

When the needs of society in protecting children result in the breaking of the privacy seal of families, we should not expect that this is a welcome intrusion.

Professor Rooney discussed the implications of recognizing the "involuntary" status of child welfare clients. Engagement strategies have been developed with this recognition in mind.

The importance of opening up an exchange with a client is to recognize their common interests: for the family, it is to have their child returned, and for the worker, it is to have the child returned, but with safety assured. In other words, the client and the worker have common, if not overlapping interests.

Professor Rooney names this exchange "Let's Make a Deal": framing the issue so that client and worker both have a stake in the outcome.

The theoretical source for this mutual interest is lodged in "Reactance Theory," derived from Social Psychology.

The reactions of outrage and, perhaps, postponing action, reflect the feelings of "powerlessness," when something of value has been seized. This sense of outrage can be tempered with a response of steps that can be taken to restore the child to the family and to regain the freedom of the family in making decisions about childrearing.

We may have the expectation that clients will be fully open and honest with us. However, the response may be masked and is not necessarily straightforward. Here are some responses:

- Ingratiation – For example: "You're the best worker I've ever had."
- Intimidation—using a tone intended to frighten.
- Supplication—throwing yourself at one's mercy
- Selective confession/self-promotion: admitting some errors; telling stories about how good I am

The acceptance of the involuntary status of the family's involvement in child protection provides the key to practice that may assure safety and stability as the outcome for the child.

Comments from the Audience*

Many of the adults coming to our attention are parents who have been uncared for as children. They want people to care for them, too. That they crave recognition may explain the "ingratiation" aspect. We have more fathers coming to our attention. In addition, workers need greater understanding of all the stages of development—some parents may be stuck at certain levels, such as adolescence.

The search for "strengths-based" family work is positive. However, we should take note of the increasing homeless population and the sheer poverty of the families we encounter.

There are new challenges in child protection, for example, recent legislation was enacted to open cases on sex offenders, regardless of program completion. How do you bargain with such levels of intrusion?

Professor Rooney responded that this is an acknowledgment that some in society believe that one can never be exonerated from certain crimes.

Wattenberg offered observations from a recent Child Welfare Supervisors' meeting:

- Caseloads are now seriously complex (involving courts, mental health, criminal justice), and many families have an intergenerational relationship with child protection.
- These clients are sophisticated about their civil rights and refer, frequently, to their "public defenders" as the source of their legal protections.

Professor Rooney responded that one could ask whether these clients are sophisticated or manipulative. It is a more useful framework to think of these clients as sophisticated, i.e., it is a strength and a skill to be aware of useful information.

*Among those audience members responding were: Ann Hill, Ombudsperson for Families, State of Minnesota; Ellie Skelton, Wayside House; Elena Izaksonas, Hennepin County Human Services and Public Health, formerly an on-site presence in Police Precinct 4, North Minneapolis.

Understanding Community Silence in the Face of Violent Crime

Background:

Inquiries into African American youth and gang life have a notable history. Two papers have recently re-emerged for attention in our continuing search for an explanation and response to the disparities in outcomes for Native-American and African-American youth.

Leon Chestang, in 1972, gave us a distinctive profile to help us understand the condition of African-American youth in contemporary society. His paper, "Character Development in a Hostile Environment" is a guide to the "Black experience" and has recently been revived for its insights and relevance. In addition, please note William Julius Wilson's, The Truly Disadvantaged: the Inner City, the Underclass, and Public Policy. References to both are included in the handout, "Further Reading and References," from this seminar at: http://www.cehd.umn.edu/ssw/cascw/events/past_events/codesofsilence.html

Chestang outlines the conditions that African-Americans encounter in this life: injustice; inconsistency; and impotence . . . a profound feeling of powerlessness to influence the environment. In sum, he captures an aspect of the "Black Experience": living a life of restricted opportunities.

From these observations, we can grasp the meaning of gang life—the chosen family of close friends, somehow providing what a family offers: belonging; protection; recognition. This comes with a price: the code of silence. A recent news story exposed the "web of coercion" in maintain the code: executions in an alley and threats to kill the young children of those who break the code (see Star Tribune, October 30, 2012, "Imprisoned Gang Leader Directed Web of Coercion"). The code of revenge, if silence is broken, is well understood.

Our next presenter is **Professor Oliver Williams**, Director of the Institute on Domestic Violence in the African American Community at the School of Social Work, University of Minnesota. One focus of his work is creating effective service-delivery strategies that will reduce violence among African-Americans.

Professor Williams' studies in domestic violence reveal the interior life of a family in which children often drift among caretakers: single parents; step-parents; relatives. Poverty is usually at the center and homelessness is the experience—threatened, or a pressing circumstance.

Dr. Williams was one of the principal investigators of a remarkable report, "Understanding Youth Violence in North Minneapolis," (see "Further Reading and References" for this seminar for reference). Here we have the combination of insights from more than a dozen community agencies with direct experience in working with "at-risk youth" and reports of the young men and women living with the uncertainty of random and premeditated violence and a profound feeling of helplessness to influence the conditions of life.

Dr. Williams reported that the community is not short on recommendations: police outreach; mentors; jobs; and a concentrated effort to diminish the culture of guns, drugs, and domestic violence.

The relationship with the police is at the heart of challenges in developing a trusting relationship: some communities have developed police programs focused on athletics, employment, and parent education. The community has to perceive the police presence as more than a "stop and frisk" action.

The role of the church must go beyond spiritual needs within the church walls. For example, the Mississippi Delta Church works with all parts of family life: domestic violence; establishing a rape crisis line; prison re-entry; mentoring. Churches have to be "churches without walls."

Comments from the Audience*

". . . a strong code of silence surrounds sexual abuse, yet families suffer trauma and grief when the incidents are exposed. Maintaining silence without involving police is important to the families. "

We should, in this discussion, bring in the role of poverty threading through the lives of vulnerable children and their families. Poverty certainly plays a powerful role in capturing children for gang life.

Sexual abuse within families is sometimes referred to as the family's "shroud of secrets." [Wattenberg observation.]

This is a new era on how people perceive privacy (see [CW 360: Child Welfare and Technology](#), Spring, 2011). How to help clients harness technology is important. Who owns the stories? We have a role in how to help youth construct their stories.

*Among those audience members responding were: Nancy Seger, CornerHouse; Chris Bray, Ambit Network; and Tracy Crudo, Assistant Director, CASCW.

Practical Applications of the Provision of Privacy Practices in a Child Welfare Setting: the Tennesen Notice

Thom Campbell, J.D., Social Services Program Consultant, Minnesota Department of Human Services. Thom is the “go to” person for questions on privacy and interpretation of the Tennesen Notice. He is the person we call for guidance. He refers to himself as a “constituent consultant,” and for the last 25 years, he has dealt with protection laws.

Observations:

- The statute governing Data Practices is chiefly under Chapter 13 of the Government Data Practices Act.
- Every time we speak with someone in a child protection investigation, we provide them with the Tennesen Notice. If signed, this gives “permission” to share information.
- The information shared is personal information.
- Child protection is a reactionary process. It responds to a report of substantial harm to a child.
- There are wide variations among the 87 counties on the number of cases opened for investigation. Hennepin County has 15-17,000 calls of reports per year.

Screened-in Process Discussed:

- Substantial child endangerment or licensing must have investigation.
- Family notices on child protection services are provided in multiple languages—for Family Assessment or Traditional Investigation.

Please note the following list of handouts provided by Thom Campbell for this event:

- “Your Rights as Parents When Your Child is Removed from Your Home,” DHS-5024.
- “Child Protection Notice of Privacy Practices” (DHS-3378)
- “Family Guide to Child Protection” (DHS-3247)
- “Several Data Privacy Definition Provisions” (MS 13.02 Definitions)
- “Maltreatment of Minor Reporting Act Records” (MS 626.556 Subd.11)

All handouts are available on the CASCW website at:

http://www.cehd.umn.edu/ssw/cascw/events/past_events/codesofsilence.html

Commentary

In a search for prevention, Minnesota, over the years, has been engaged in differential response programs: providing voluntary supportive services to families reported for abuse and neglect, but “screened out” because the allegations did not meet the criterion of “imminent harm.” In 2005, a formal program known as the “Minnesota Parent Support Outreach Program (PSOP) was introduced in 38 counties. A few years later this was extended state-wide. Families with children ten and under are the primary target. PSOP represents DHS focused efforts in engaging families in ways that would encourage their participation in improving the well-being of their children. [For further information, see Thompson, D., Siegel, G.L. & Loma, L.A. (2008). The Parent Support Outreach Program: Minnesota’s Early Intervention Track, *Protecting Children*, 23(1-2), 23.]

Comments from the Audience

Question: Crossover youth are a problem in Minnesota. These are adolescents who are under Child Protection and also involved with the Juvenile Justice system. Is the Tennesen Notice read to such youth?

Thom: I have received no requests for this information, but if you are talking to a child over ten, he/she must be given the Tennesen Notice. This is not in statute. However, at age ten, the child begins to understand what could happen if something is divulged that may have negative consequences.

An Historical Note of Interest: Another recurring theme is the issue of legal representation of a child involved in a child protection case. This issue came to public attention under Governor Jesse Ventura's administration. Legislation that a juvenile, age ten and older, can obtain a public defender was enacted to assure a uniform, state-wide measure.

Comment: If a child is counseled by an attorney not to speak, there may be a conflict—they may not receive services. Criminal/civil issues are ongoing. [Minnesota State Ombudsperson for Families.]

Insights on Maintaining a “Code of Silence”: Teenage Families

Ann Gaasch, Program Director, FamilyWise.

Observations:

- Even though it may seem as if adolescents “don’t quite get it,” they are often “system-savvy.”
- It may be that they are so used to sharing with peers, via social media, that they, in fact, overshare. They can have boundary issues.
- They need to know what is and what isn’t appropriate to share.
- Don’t underestimate loyalty of youth.

Safeguarding Privacy in an Information Society: Special Challenges for the Child Welfare System

Dee Wilson, Director, Child Welfare Services, Knowledge Management, Case Family Programs.

Brief Comments:

When a “Code” is an absolute condition to be in a group, there are very powerful penalties to breaking the “Code,” such as exclusion, violence, and even death. Examples of not breaking the “Code,” are instances such as involvement in meth homes. Another example is that among the Hmong, there is a prohibition against shaming one’s family, with disclosures of abuse and neglect.

Powerful organizations have, in many instances, maintained a “Code of Silence” (usually around sexual behavior): the Church; University athletic departments; Boy Scouts. What is at stake, as a result of disclosure, is that some churches have gone bankrupt.

Recurring themes have emerged over the last decade in disclosures of sexual assault of children within powerful organizations: allegations; then disclosures; followed by apologies for “sad and shameful events.”

The power of advocates and advocacy organizations is impressive.

*Comments from the Audience

In answer to the question of who does the “outing,” it is often the victims, themselves.

In the past it seemed that secrecy meant safety. But it is now known that “in secrecy” is when abuse happens. Recovery should be open, for encouraging others.

We used to help families keep maltreatment secret. Now we insist they tell people outside their family what happened and what we are worried about for their children. Getting it all out in the open seems to encourage the family’s recovery.

*Among those audience members responding were: Don Pelton, Supervisor, Washington County Community Social Services; Nancy Seger, CornerHouse; Dan Koziolk, Child and Family Manager, Carver County Community Social Services

Wattenberg: Concluding Remarks

The issues we have touched on have direct relevance to our search for the sources of our disparities, particularly, as they refer to Minnesota’s racial disparities. When dealing with adolescents, note that the disparities are particularly more severe than the national average at four points: arrest; secure detention; probation and adult certification; and referral for diversion (On the Level: Disproportionate Minority Contact in Minnesota’s Juvenile Justice System. Minnesota Department of Public Safety, Office of Justice Programs. (See “Further Reading and References” from this seminar for reference.)

These data are a vivid reminder of what it means when race and poverty remain unaddressed.

With the extensive internet collection of personal data, a sense of privacy may be dwindling. But in the discussion today, we have been re-introduced to the potential of a personal sense of injury when “a code of silence” forbids the disclosure of serious harm to children and young adults.

It is critical to understand the variety of ways in which “codes of silence” play out in gang life, church organizations, University Athletic Departments, and family life, with its cultural histories.

Finally, let us remember that what is at stake is the fate of young children and the injuries they suffer. They are the major concern of the Child Welfare system.

“Brief Notes” were prepared by Esther Wattenberg, Professor, School of Social Work, Center for Advanced Studies in Child Welfare (CASCW), and Associate, Center for Urban and Regional Affairs (CURA), University of Minnesota. She can be reached at ewattenb@umn.edu.

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