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## CONFIDENTIALITY: THE BASIS OF THE THERAPEUTIC RELATIONSHIP

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Val D. MacMurray  
AMCAP Presidential Address,  
October 1985

**L**eo Tolstoy begins *Anna Karenina* with these memorable words:

Happy families are all alike; every unhappy family is unhappy in its own way.

Everything was in confusion in the Oblonskys' house. The wife had discovered that the husband was carrying on an intrigue with a French girl, who had been a governess in their family, and she had announced to her husband that she could not go on living in the same house with him. This position of affairs had now lasted three days, and not only the husband and wife themselves, but all the members of their family and household, were painfully conscious of it. Every person in the house felt that there was no sense in their living together, and that the stray people brought together by chance in any inn had more in common with one another than they, the members of the family and household of the Oblonskys. The wife did not leave her own room, the husband had not been at home for three days. The children ran wild all over the house; the English governess quarreled with the housekeeper, and wrote to a friend asking her to look out for a new situation for her; the man-cook had walked off the day before just at dinner-time; the kitchen-maid and the coachman had given warning. (Tolstoy, 1877/1939, 3-4)

While I do not agree that all happy families are alike, I think it is true that the unhappiness of an unhappy family is unique despite the number of unhappy families. My interest today is to raise a difficult issue that lies at the intersection of two sets of values: our values as Latter-day Saints and our values as professional therapists. I am doing this in a spirit of helpfulness, not of criticism. I am sharing the concerns I have heard from many of you and that I feel myself—concerns

for our clients, concerns for our community, and concerns for the values that shape the generations that follow us.

The intimate setting of the family has always been a place where either love or anger, kindness or hurtfulness flourish. There is no comfortable distance in intimacy. The match is always touching the striking surface, ready to flare up either into brilliant joy or into painful hurt. In intimacy, there is no place to hide. Precisely for this reason one of the promises of intimacy is also extreme peril.

I know many families trapped in the painful situation of Tolstoy's Oblonskys. I have heard a frustrated parent confess to almost wishing that a disobedient child would be found too late to be brought back from a drug overdose. I have heard couples in deeply troubled marriages admit there are times when the thought of their own or their partner's death has flitted across their minds. Intimacy, contrary to popular belief, is not born of passion but the other way around. It is in intimacy that the passions—ranging from deepest tenderness to rage—are born.

As therapists, we are invited to enter this intimate space. I would like to address some issues for LDS therapists today that relate to our intrusion—even if invited—upon that intimate space. Our obligations grow out of our professional commitment to maintain confidentiality as we enter those intimate spaces. We have a professional obligation to enter respectfully, to—in the minimum language of the Hippocratic oath of physicians—do no harm even if our ability to do good is limited, to establish a therapist–client relationship that is also, in its own way, an intimate relationship so that we can foster the process of healing and health, and yet be able to terminate the professional relationship without the damage that most terminations of intimate relationships bring. I would like particularly to address the professional obligation of confidentiality that rests upon us all.

*Intimacy* comes from a Latin adjective, the superlative form of *interior*. In other words, it represents the ultimate in privacy, the supreme “inside job.” Intimacy is a state of coexistence in the same space, space so private that only the people in it can make the rules for how to share and use that space. In healthy intimacy, as in a marriage or in a parent–child relationship, for instance, the deepest essence of the other person's being is savored, even if it cannot be truly known; appreciated, even if it cannot be truly understood, rejoiced in, and celebrated. As a husband, I accept the essential personhood of my wife, delight in and am delighted by its manifestations in her personality, nurture her growth in directions that deepen her personhood, and care profoundly for her eternal well-being, not only as my wife but as an eternal sister,

comrade, friend, confidante, and—yes—honorable competitor in this cooperative venture we call marriage. Similarly, as a father, I rejoice in the personhood of each child, accept the surprises, deal with the dismays, share the secrets of my own growing toward personhood, and gratefully learn from their own growth.

Inherent in intimacy is the concept of sharing essential information at close quarters where the privilege of sharing is also the power to harm. In this situation as possibly in no other, knowledge is power and “no power . . . can or ought to be maintained . . . only by persuasion, by long-suffering, by gentleness and meekness, and by love unfeigned; by kindness and pure knowledge, which shall greatly enlarge the soul without hypocrisy, and without guile—reproving betimes with sharpness, when moved upon by the Holy Ghost; and then showing forth afterwards an increase of love toward him whom thou hast reproved, lest he esteem thee to be his enemy; that he may know that thy faithfulness is stronger than the cords of death” (D&C 121:41–44). Needless to say, most of us, whether client or therapist, seek with varying measures of success to incorporate these qualities perfectly into our family life.

Family space is intimate space. Each family, no matter how troubled, exists in the same intimate space. As a therapist, I approach that space hoping to help family members see a new way to arrange the space, share the duties, make rules that will deepen and protect that intimacy. Yet in many cases, we are dealing with distortions of intimacy: with intimacy that does not know how to give as well as take, to respect as well as need, to nourish as well as feed. We are invited because the need for help is greater than the need to maintain privacy, because the hunger of intimate personal needs is driving an individual into seeking strange food—in extreme cases, adultery, abuse, and incest.

I think, just as we are now teaching children that there are “good secrets” and “bad secrets,” that it is time for us to talk about “keeping secrets.” About keeping secrets as therapists. About keeping secrets as Latter-day Saints. About keeping secrets as human beings. I choose to do it in the context of sexual abuse, particularly incest, simply because we are all newly sensitized to this situation. No doubt each of you is familiar with statistics in your state; but while reports of child abuse in Salt Lake County have increased 53 percent in the last four years, there has been about a 300 percent increase in reports of child sexual abuse—297 percent in one Utah district and 304 percent in another (Panel, 1985, 1). And the questions of confidentiality become particularly keen given the legal requirement to report child abuse to the proper authorities.

## The Requirement of Confidentiality

According to the American Psychological Association's "Ethical Principles of Psychologists":

Psychologists have a primary obligation to respect the confidentiality of information obtained from persons in the course of their work as psychologists. They reveal such information to others only with the consent of the person or the person's legal representative, except in those circumstances in which not to do so would result in clear danger to the person or to others. Where appropriate, psychologists inform their clients of the legal limits of confidentiality.

There are specific requirements governing disclosures to third persons, of preparing written reports, of making professional presentation, of storing and disposing of records that will "avoid undue invasion of privacy" and of taking "special care to protect . . . [the] best interests" of "minors or other persons who are unable to give voluntary, informed consent" (Schulz, 1982, 152-153).

The basis of the therapeutic relationship is *confidentiality*, a word that stems from a root that also produces such words as *fidelity* and *fiduciary*. We go into the intimate space of people, hoping to restore their abilities to have healthy intimacy in their personal lives. We are allowed to enter under the seal of that confidentiality so that, in an atmosphere of trust and honest disclosure, self-knowledge will come. Out of the powerful truths will, ideally, come the power to change behavior and patterns of thinking that have been negative, entrapping, and enslaving. The concept of confidentiality is the assumption that the client can think out loud about his or her behavior and feelings with the confidence—a word of two meanings—that the therapist will not use the information to injure him or her or will not divulge it to third parties. The pattern of common practice and legal cases establishes such confidentiality as the client's right. This is an important point, for, as therapists, we sometimes feel that confidentiality is *our* right.

Confidentiality, privileged communication, and privacy are related concepts, but there are important distinctions between them. . . . *Confidentiality* . . . relates to matters of professional ethics. Confidentiality protects the client from unauthorized disclosures of any sort by the professional without informed consent of the client. . . . The purpose of confidentiality is to safeguard the client's rights and . . . sanction . . . violations of confidentiality. . . . *Privileged communication* [is] the legal right which exists by statute and which protects the client from having his confidences revealed publicly from the witness stand

during legal proceedings without his permission. Privileged communication, then, is a *legal* concept and refers to the right of clients not to have their privileged communications used in courts of law without their consent. If a client waives this privilege, the professional has no grounds for withholding the information. . . . Privacy [is] the freedom people have to choose for themselves when to share or withhold from others information about their attitudes, beliefs, opinions, and behaviors (Corey, Corey, & Callahan, 1979, 122–123).

In actual fact, there are several situations that would modify such assumptions. Therapists frequently need to supply data to insurance companies about diagnosis and treatment, sometimes routine and sometimes requiring client release. They also need to provide information to hospitals or answer requests from other medical personnel. Sometimes these are referring physicians, but sometimes their client is an agency, not an individual. The information is sought for an organization's best interests, not those of the client. Peer review of difficult cases, particularly at the request of third parties, is becoming more common, and more people thus inevitably have access to the facts of a case.

### Breaches of Confidentiality

Therapists also have a legal right to breach confidentiality when there is the probability of harm to another. The landmark case in this regard was *Tarasoff v. the Regents of the University of California*, a 1974 case. A client told his therapist, who worked in a University of California hospital, that he intended to kill his girlfriend. The therapist told the campus police, both orally and in writing, that "Poddar was dangerous and should be taken to a community mental health center for psychiatric commitment." The police talked with the client and released him when he promised to stay away from the girl. However, he shot her and then stabbed her fatally. Her parents sued the therapist, the university regents, and the campus police for failing to notify her. Although the Supreme Court refused to award punitive damages, it ruled in favor of the parents and charged the therapist with irresponsibility. The California state legislature passed a statute: "There is no privilege if the psychotherapist has reasonable cause to believe that the patient is in such mental or emotional condition as to be dangerous to himself or to the person or property of another and that disclosure of the communication is necessary to prevent the threatened danger" (Corey, Corey, & Callahan, 1979, 123; Schwitzgebel & Schwitzgebel, 1980, 205). As a therapist, you need to know how this case would apply in your state.

Parallel issues come up when a client threatens suicide. Should someone else be warned? Should the client be hospitalized? What about someone who talks about beating his wife or a girlfriend? What if a client is using or dealing drugs? What if a client admits burglary or fraud? Disclosures of past events are problematic enough, but what if the revelation is of a future intent? In a recent case in Pennsylvania, a patient told her therapist that she wanted to kill her employer. When the psychiatrist warned the employer, the employer naturally fired her, and the client sued the psychiatrist for breach of the state confidentiality statutes. The court ruled against the psychiatrist's defense of "legal duty" and upheld the patient's right to sue (Monahan, 1984, 29).

And what constitutes hurt? If an active Latter-day Saint, man or woman, tells me in therapy about an affair, I can safely predict damage to the individual, to the spouse, to the children, and to the partner as well. Certainly part of my therapy would involve encouraging him or her to deal honestly with the marital issues that led to an affair and eventually talk to his or her bishop; but it is difficult for me to imagine a scenario where I could believe that reporting this person to his or her bishop or spouse would be other than a grave breach of confidentiality.

### Child Abuse Reporting Requirement

Not least important in this catalog of exceptions, therapists in this state as well as others are expressly required by statute to report cases of child abuse or sexual abuse, or even suspected abuse. This requirement presents several interesting aspects of legal and moral responsibility, but from a professional perspective, the requirement to report is absolute for us.

The assumption of confidentiality has historically been extended to therapists by extension of the doctor-patient privacy rules, not by extension of the priest-penitent privilege. As Latter-day Saint therapists who deal largely with a Latter-day Saint population, sometimes the distinction between the two may become blurred in our minds and in our practices.

However, as a practical matter, neither analogy is particularly helpful, for the doctor-patient privilege has been so consistently overridden by the court's "need to know."

In parallel fashion, the priest-penitent privilege is not an enjoinder of absolute silence upon an ecclesiastical leader. Such an enjoinder may exist, but it does so as a result of the internal standards of the priest's own religious order. Instead, the priest-penitent privilege is a narrow legal exemption, that he may not be examined upon matters which he learned about in confession or in another private and official setting.

In the Catholic church, where confession is anonymous and a sacrament, the seal of the confessional is absolute. A priest is absolutely forbidden in any way or manner to betray a penitent either verbally or otherwise. The penalty for doing so is automatic excommunication and a suspension of his priestly duties. The classic seminary example is this: Mrs. Riley, your own housekeeper, comes to early morning confession and, without knowing who is on the other side of the curtain, confesses that she has just put arsenic in her priest's morning coffee. You are that priest. What should you do? The answer: drink the coffee. This answer presupposes, of course, a forced choice between revealing and keeping the confession and does not allow other options such as persuading Mrs. Riley to change her mind through the very proper channel of withholding absolution until she repents, deciding to fast that morning, etc. The LDS context of lay leadership and confession—confidential but certainly not anonymous—does not have an exact analogue to this kind of canonical law. It does not even have an approximate one since I know of no action, except possibly release, taken against a bishop who divulges confidences without an urgent reason.

Probably no professional here has any doubt that the state of Utah's statute requiring that child abuse be reported applies to him or her. Since the statute specifically requires doctors to report, clearly no legal exemption would be made for mental health professionals under whose umbrella they most usually take shelter.

Reality is seldom as uncomplicated as the rules, however. Let me share a personal experience. Some time ago, I received a call from a bishop who wanted me to consult with one of his ward members, a man past retirement age and terminally ill who had come to him with a confession of having sexually abused boys in their early adolescence. He had been an active member of the Church all of his life and had, as a result, been called to positions of trust and confidence. It was from these positions that he had been able to attract, seduce, and abuse these boys.

The bishop was fiercely determined that this man, almost certain to die within a year, should not be subjected to legal processes; but he had consulted me because he felt the man's mental state required the services of a professional. The bishop could not assure me that all abuse had stopped. Nor could he assure me that the man's victims, some of whom would now be middle-aged, did not need care in their own ways.

As a therapist and a former bishop myself, I was in a dilemma. I saw the man in his bishop's presence. I did not ask his name. I did not inquire about on-going abuse. I did not ask searching questions about restitution to the man's victims. I simply dealt with his current



crisis and was, I think, helpful. How responsibly or irresponsibly was I behaving? It was some comfort to me that the man was so obviously ill that I felt *almost* certain his condition would preclude continuing abuse, but I knew the statistics and I couldn't be sure. In this case, I shielded myself from reporting by shielding myself from the information that would require me to take action.

But sometimes, the thought of those boys—some of them mission-age now, some of them married and fathers, some of them holding the same position that this man held when he approached them—flashes across my mind and I do not feel entirely comfortable. The man's bishop was his advocate in that situation, but who was the advocate for those boys? I would have said, if asked, that my first value was protecting children and my second value would have been helping offenders. But when it came right to the test, did I reverse those values?

### The Therapeutic Situation

It seems to me that the therapeutic situation is a situation involving human pain with the therapeutic task in part being to help others process their pain.

I am sensitive to the fact that in this association, a majority of the therapists are men. In the setting of the Church, ecclesiastical leaders are always men. I think that some unique therapeutic challenges may therefore exist in cases of sex abuse. Sometimes I wonder if we are able to understand and imaginatively comprehend *all* the human pain with which we must deal. When a bishop faces an incestuous father across his desk, he typically faces a man torn by remorse and sorrow. I think it is at least probable that the bishop will deal very well with the proximate pain of the father in trying to move him into the pattern of repentance that the bishop has great faith in. However, I wonder if he is sometimes distracted from recognizing the pain that is not in his office: the pain of the abused daughter, pain which may not be acknowledged or dealt with until years later; the pain of the betrayed mother who, in turn, has betrayed her child; the pain of the other children in the family who, on whatever level they know or sense the abuse, must struggle with issues of their own love, loyalty, outrage, and emotional well-being. I think it may also happen that the bishop may not have the time or resources to process his own pain.

Marilyn Sandberg, director of the Weber County Task Force on Child Sexual Abuse, investigated the Victim/Witness Program in our county and testified about six months ago regarding 10 cases where the daughter or victim had reported the abuse to a religious leader.

In all 10 cases, the leader had called in the father, who had, in each case, confessed. (In the typical 10 cases, I would suspect at least 3 or 4 denials.) Usually the father was excommunicated but—and this was the key in her testimony—in *every case the molestation had continued* (Panel, 1985, 22).

If one generalization is true about people who sexually abuse children, it is that they are addicted to their behavior. Acting out that addiction, they will abuse again and again until they receive concentrated and thorough treatment over an extended period of time, treatment that involves reorganizing and reeducating the whole family so that the daughter knows how to relate differently to her father, and the mother knows how to relate differently to him. In 1983, the average molester had abused 67.5 children before being caught. Many molesters admit to hundreds or even thousands of incidents of sexual abuse of children. In the U.S., 1 in 4 girls will suffer some kind of sexual abuse before they reach 18 years of age. The ratio for boys ranges from 1 in 5 to 1 in 7. In Utah, the estimate for both boys and girls is 1 in 6 (Panel, 1985).

In examining programs of incest treatment that seem to be successful, that of Santa Clara County in California, which is thorough and concentrated, has been a model for several years. It is deliberately multiagency. This program reports that offenders who are court-ordered into treatment stick with it and that a treatment program involving the entire family has produced hopeful results. In sexual abuse cases “more than 92 percent of the children return home, and more than 75 percent of the marriages remain intact. . . . The recidivism rate is 0.6 percent for those families who have completed the program. . . . In ten years, more than 3,000 families have been provided services.”

### Need for Cooperation

We need to stop keeping this disease of family abuse from ourselves. We need to stop communicating to victims that they must continue to maintain the secrets. As a colleague in the state Department of Social Services has observed, “Lay clergymen do the best they can with the training and resources they have, but there’s a tendency to think they can solve problems which they are *not able* to solve.” He reported many cases where a lay clergyman thought a problem had been “taken care of” only to discover that it was far from being resolved.

One of the those inconvenient ecclesiastical realities is that the statistical probability of a bishop learning about a case of incest from the abusing father is much less than learning about it from the daughter (sometimes when she is an adult) or from the mother—in other words,

from a third party. The Utah law quite clearly requires a bishop under those circumstances to report abuse. It is possible that a bishop, identifying with an active, priesthood-holding father, or being reluctant to report for other reasons, might find himself faced with a dilemma. If a 14-year-old girl comes to him and begins to tell him something about her father that seems to involve improper conduct, what should he or might he do? It is possible that he will stop her to say, "I think you need to know that if you're going to tell me that your father has been sexually abusing you, that I'll have to report him to the authorities and the following things will happen to him. . . ." Depending on the tone of voice, I suppose it is possible for the bishop to communicate, "You'd better tell me that he's a great guy and you've got a terrific family."

In this case, the pain of two people—the bishop and the incestuous father—will have been assuaged at the cost of increased pain and betrayal for the daughter—who had to work up her courage for who knows how long—and for the rest of the family. Perhaps this could happen even though the Church's legal position on the issue has made it quite clear that under Utah law an LDS Social Services worker who learns of sexual abuse under any circumstances must report it, that the bishop who learns of sexual abuse from anyone but the perpetrator as a formal confession must report it, and that when he learns of the abuse *only* through the confession of the perpetrator, he should encourage him to agree to have it reported, preferably by Social Services personnel (Panel, 1985, 12). This would apply to any therapist, LDS or not.

In some ways, the line between being a counselor and being a judge in Israel can be confusing. It is helpful for a counselor to be accepting and nonjudgmental. It is absolutely counterproductive for a judge to refuse to evaluate spiritual and moral qualities. At the same time, it is unrealistic to indulge in what Father Peter Van Hook, rector of All Saints Episcopal Church in Salt Lake City, has called "fantasies of power," namely, that ecclesiastical approval, advice, or disapproval can effect a change that requires the involvement of spiritual authority, the force of the state, and the skilled help of a therapist (Panel, 1985, 16–17).

### Dealing with the Therapist's Pain

Statistically, among a group this size and with the ballpark figure that 1 of 6 children is sexually abused—1 in 3, according to some studies—I feel safe in saying that many of us here today have had this experience. That this room does not contain victims of sexual abuse who were also victims of incest is also statistically improbable. I recognize that pain and the courage it takes to reach beyond it to help others

experiencing similar pain. The issues may be somewhat different for people with this personal experience than they are for the other 5 out of 6 who did not have the same experience, but the therapeutic issues are the same for each.

As therapists, we are not in much of a position to offer help if we have no emotional control over the situation ourselves. As Lynn Roundy has suggested:

Few subjects have the explosive effect that is associated with the sexual abuse of children/adolescents, especially by a member of the family. . . .

It is very important that each helping professional examine his/her own feelings, and where there are biases, and/or significant unresolved issues, that they be dealt with. In order to be of help to another person who has experienced the potential trauma of sexual abuse, the professional must be able to present himself as a person who views the subject with reason and measured behavior. Victims need to see that the issue can be survived (1984, 1).

In other words, therapists also can need therapy, and the place to get it is in the confidential setting of another's office.

### Conclusion

Trust, that essential cornerstone of healthy intimacy, cannot be coerced or commanded. It must be earned. Often we are in the position of dealing with families trapped in patterns of unhealthy intimacy, whose members no longer trust each other because that trust has been forfeited by unloving acts. They are in the position of some of Jacob's hearers when he accused them: "Ye have broken the hearts of your tender wives, and lost the confidence of your children, because of your bad examples before them" (Jacob 2:35).

Our task as therapists—indeed, the reason we were invited to enter that intimate family space in the first place—is to give them, if we can and if they have the will to follow through, the tools and skills to rebuild that confidence, to restore those broken hearts. True intimacy will generate "good secrets" that bind heart to heart. "Bad secrets" are in themselves a perversion of intimacy that will eventually contaminate and poison even the vestiges of true intimacy. No service is done anyone by perpetuating such terrible distortions of intimacy. The purpose of confidentiality is not to protect these "bad secrets" or to protect people from the consequences of creating and keeping "bad secrets." It is to teach them a better way of sharing that intimate space so that the relationship can be a nourishing one.

Restoring true intimacy in human relationships has profound implications for an individual's ability to experience true intimacy in

dealing with the Savior as well. In fact, I cannot differentiate the parts of the process. Repentance before the Lord often generates the will and the skill to make things right within a family circle. Seeing hope for healing with damaged loved ones often generates the confidence that a loving Father and his Son actively care about the outcome of that process. It is for this reason, I believe, that the promise was given: "Let virtue garnish thy thoughts unceasingly; then shall thy confidence wax strong in the presence of God" (D&C 121:45).

Christ is the prince of grace as he is the prince of peace. To help someone, burdened by habits of addiction and oppression, lift his or her eyes to that visage of perfect love, perfect mercy, and perfect justice is truly a work of liberation, a work that the Lord has chosen "to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free" (Isa. 58:6).

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