

## **Module 4: Standard Decisionmaking Process for Ethical Decisions**

### **Purpose**

This module teaches participants a standard process for making ethical decisions and how to use the process.

### **Lessons**

1. The Decisionmaking Process
2. Common Ethical Issues

### **Learning Objectives**

By the end of the module, you will be able to:

- State the steps in the standard decisionmaking process.
- Use the standard decisionmaking process when faced with an ethical dilemma.

## 1. The Decisionmaking Process

Effective decisionmaking for victim service providers requires knowledge of the relevant ethical standards as well as practical considerations in making ethical decisions. The decisionmaking process can be organized into six basic steps:

1. Assess the facts. Review all relevant documents and legislation. Verify all sources of information.
2. Identify relevant standards and practical considerations. What ethical standards and corresponding practical considerations are in conflict?
3. Brainstorm at least three (preferably more than five) courses of action and consequences of each.
4. Consult your peers or your supervisor.
5. Choose the best option and act.
6. Evaluate: How can this situation be avoided in the future?

## 2. Common Ethical Issues

Common ethical issues that victim assistance providers face include boundary issues and multiple relationships, confidentiality, legal advocacy versus legal advice, and professional competence.

### Boundary Issues and Multiple Relationships

If providers offer friendship (or love) to clients outside the purview of their duties, or if they exchange goods and services with a victim, then professional boundaries have been violated and a dual relationship has been created. In a counseling or advocacy relationship, the provider has professional influence over the victim. When a second or dual relationship is established, the provider's influence and the victim's subordination are generally replicated. The victim remains vulnerable to the provider's position of power, creating an unfair dynamic in the second relationship. This blurring of the boundaries between the primary and secondary relationships permits the abuse of power.

Victim assistance providers who enter into dual relationships with victims often rationalize their behaviors by asserting that the circumstances are unique or that they cannot serve the client without making efforts that exceed normal boundaries. However, regardless of these well-meaning intentions, crossing the boundaries of ethical practice creates a potentially exploitive situation for the victim and impairs the good judgment of the provider.

Any time providers venture outside the boundaries established in the professional code of ethics, they do a disservice to the victim, who may ultimately experience distrust and anger.

If providers engage in dual relationships or have an inclination to do so, they should seek assistance in identifying their motivations and request intensive supervision of their interactions with victims. If necessary, they may need to leave their jobs until the ability to maintain appropriate boundaries has been reestablished.

## **Confidentiality**

Confidentiality is the foundation upon which trust in the provider-victim relationship is developed and nurtured. Serving victims often requires that providers become involved in private and personal areas of people's lives. Respecting the privacy of the victims served and keeping all aspects of the relationship confidential to the fullest extent are ethical standards that apply to every client served. Many providers are required to sign confidentiality agreements with their agencies and maintain the confidentiality of agency records, and are held accountable for adherence to the agency policy on confidentiality.

However, confidentiality is not a *guaranteed right* in the field of victim services. Unlike other legal rights of confidentiality, such as the attorney-client privilege or the psychotherapist-patient privilege, there is not a commonly established right of confidentiality between victim service providers and their clients. Some states have extended, most by way of the psychotherapist-patient privilege, the right of confidentiality to domestic violence and sexual assault victim service providers.

Even where the rule of confidentiality is established by state statute, there are situations in which confidentiality can, and even should, be broken. It is the provider's duty to inform a victim of these exceptions at the beginning of the relationship (except in extraordinary crisis situations). Exceptions to the right of confidentiality are discussed in detail in the NVASC's Ethical Code for Victim Assistance Providers and include the following:

- Emergency health issues (including death)—for example, information pertaining to the health of an individual in need of immediate medical intervention.
- Conditions relating to minor victims—for example, reports of imminent danger to the minor.
- Sharing of information among agency colleagues that extends the confidentiality clause to those privy to the information.
- When a confidential communication has raised a threat of imminent harm to either the client or a third party.
- Informed consent—a written release, signed by the victim, that permits providers to disclose written or oral communications to any individual or entity.
- Child and elder abuse. In some states providers will be mandated to report child and elder abuse to child or adult protective services.
- Duty to warn—the legal obligation to inform people of danger. States differ regarding duty to warn and confidentiality privileges.

- When subpoenaed to testify in court in some states. It is imperative that providers be educated about the controlling legal authority in their states with respect to confidentiality and its exceptions.

### **Legal Advocacy versus Legal Advice**

Legal advocacy to crime victims is also complicated by unauthorized practice of law (UPL) statutes. All states have laws that limit the practice of law to licensed attorneys, but courts differ widely in how they enforce the law. Generally, the courts look at UPL in terms of harm caused by the practice of law by an unlicensed person.

Many victims of domestic violence pursue cases in court for custody and restraining orders without the services of a lawyer, and legal advocates often find themselves walking a fine line between assisting victims in the legal process and UPL. The advocate can give information and support and can make referrals to appropriate resources. For example, victim assistance providers can give a tour of the courtroom and explain what typically happens in court but should avoid giving any legal advice to clients.

Phrases to remember and to keep you clear of giving legal advice include:

- I cannot tell you what to do, but some of your options are....
- I cannot predict what will happen in your case, but the usual process is....
- I know that none of these choices are what you want, but which option will move you closer to what you need?
- I can never guarantee what the judge/police/social services will do, but what usually happens is....
- It has been my experience that women in similar circumstances to yours have done....but you will need to decide what works best for you.

If you find yourself saying, “you should,” “what will work is,” or “if I were you,” stop and rephrase your thought in a way that places the choice/responsibility on the client.

### **Professional Competence**

Victim assistance providers must keep informed of all new and pertinent developments within the field, including research findings, newly enacted statutory guidelines, and policy changes. Achieving and maintaining professional competence serve the interests of the victim, the field of victim services, and the victim assistance provider.

Being competent also means providers recognize when the need for supervision or other types of consultation arises. In serving the best interests of the victim, providers must stay within their clearly defined roles and responsibilities. If the victim’s needs go beyond these particular roles and responsibilities, providers must make an outside referral. To do this, providers must be familiar with the resources of the community in which they work and have contacts within the allied professionals in the area.

When a victim no longer benefits from the services the victim assistance provider has to offer or the services are no longer relevant to the victim's needs, the professional relationship should be terminated. The provider should prepare the victim for this eventuality, particularly if the victim is unusually vulnerable and derives a great deal of support from their relationship. If referral to another professional is indicated, the provider should obtain as much information as possible and provide this to the victim in a timely manner. On the other hand, providers are strongly discouraged from terminating a relationship with a victim in order to pursue a business or personal relationship with the victim.



## **Worksheet 4.1**

### **The Decisionmaking Process**

1. Assess the facts. Review all relevant documents and legislation. Verify all sources of information.
2. Identify relevant standards and practical considerations. What ethical standards and corresponding practical considerations are in conflict?
3. Brainstorm at least three (preferably more than five) courses of action and consequences of each.
4. Consult your peers or your supervisor.
5. Choose the best option and act.
6. Evaluate: how can this situation be avoided in the future?





## **Worksheet 4.2**

### **Disclosing Victim Vignette**

Deborah Giles is a victim assistance provider in a prosecutor's office. For the past 5 months, Deborah has been working with Paulina Mantegna, a young woman who is a victim of criminal sexual assault. The case against Paulina's rapist is about to plead out.

A call has been patched through to Deborah's home phone. As this scenario opens, we hear the phone ring in Deborah's apartment.



### **Worksheet 4.3**



## **Common Ethical Issues**

State the ethical issue.

What standards are relevant to this issue?

What practical considerations should the victim service provider be aware of?



## Module 4

# Standard Decisionmaking Process for Ethical Decisions

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## Learning Objectives

- ❖ State the steps in the standard decisionmaking process.
- ❖ Use the standard decisionmaking process when faced with an ethical dilemma.

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## The Decisionmaking Process

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Decisionmaking Process

1. Assess the facts.

2. Identify relevant standards and practical considerations.

3. Brainstorm options and consequences.

4. Consult with peers/supervisor.

5. Choose best option and act.

6. Evaluate.

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Activity

*Disclosing Victim Vignette*

*Worksheet 4.2*

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Decisionmaking Process

1. Assess the facts.

2. Identify relevant standards and practical considerations.

3. Brainstorm options and consequences.

4. Consult with peers/supervisor.

5. Choose best option and act.

6. Evaluate.

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Common Ethical Issues

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Common Ethical Issues

- ❖ Boundary issues and multiple relationships
- ❖ Confidentiality
- ❖ Legal advocacy versus legal advice
- ❖ Professional competence

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Activity

Common Ethical Issues  
Worksheet 4.3

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## Review of Module Learning Objectives

- ❖ State the standard decisionmaking process.
- ❖ Use the standard decisionmaking process when faced with an ethical dilemma.



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Office of Justice Programs  
Office for Victims of Crime



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