**Common Counseling Problems Or Issues**

Every client has a particular and specialized counseling need. However, there are several commonly recurring counseling problems that the law student will encounter in the law clinic and in future practice.

### Client is still in the Venting or Emotional Stage.

As the law student will soon discover, clients rarely see attorneys before a legal problem arises. Likewise, many times the visit to the lawyer is a “crisis” or “emergency” for the client and even very late in the case the client is still very emotionally affected by the legal problem. As in the interviewing stage, good communication and good client decision-making cannot take place until the venting or emotional stage is over, or, at least at a manageable level. In cases where the emotional overlay is serious and disruptive, a referral to a professional counselor or therapist may be necessary before effective legal counseling can take place. In most situations, the passage of time is itself a good healer and delaying or parceling of legal advice may be appropriate. In cases where the level of emotional involvement is not severe or has diminished to acceptable levels, the law student may also be able to provide some appropriate stress or practical counseling to the client in order to get past the venting stage. However, clients with serious or severe emotional or mental issues should always be referred to professional counselors or therapists.

One good approach is to address the causes or reasons for the stress directly and to acknowledge or empathize with the emotional response. The student might consider asking the client directly to explain why he or she feels so strongly or is so affected by certain facts or conditions. This will clearly help the law student to better understand the client and sometimes simply “talking about something” helps minimize the reaction. Knowing that certain facts or conditions cause a particular emotional response on the part of the client may also allow the student to counsel a result or solution that avoids or minimizes these kinds of events in the future. Dividing the counseling or decision-making process into several sessions or into a graduated series of sessions may be a way to control the distractions of a client who still has strong emotional reactions to parts of his or her case. Good decision-making by the client is generally conditioned on an objective and composed client.

### The Real Problem is Not Legal.

On occasion, the law student will encounter a client who either does not have a true “legal” problem or who has other overwhelming non-legal problems that must be addressed. The stereotypical situation is where a client has a minor legal problem such as a traffic ticket, or a dispute with a neighbor, and it is apparent to the attorney that the “real” underlying problem is that the client needs professional counseling or therapy. Another example would be where there is a legal problem such as a landlord tenant or debt problem that can be easily addressed legally, but it is apparent that the underlying issue for the client is substance abuse or dependence. In both of these situations, the student would be wise to address any legal problem in the usual manner, and then to address the underlying problem. Unless the student has a unique background or specialized training, the appropriate counseling response is to refer the client for specialized care by a person or agency that deals with the particular problem involved. Students are cautioned that their counseling should stay focused on legal problems and that clients requiring specialized counseling should be referred to specialists. On the other hand, students are encouraged to look at the “whole” client and to consider a wide range of options, including non-legal options. An example of this would be where an adult child lives with an elderly parent and there are serious internal disagreements or family issues. The legal solutions of an eviction action or partition action can solve the immediate “legal”
problems, but family counseling or referral to a trained mediator may be best. It should be clear to the lawyer that the non-legal issues may be more important to the client than the purely legal issues. The decision of the relative importance of legal or non-legal issues is for the client to determine.

In all cases where a student feels there may be important “non-legal” issues, these issues should be carefully discussed with the faculty member and a clear plan of referral or counseling developed where appropriate. An attorney can get into serious difficulty if he or she tries to counsel outside of his or her experience and training.

**You are the Lawyer. You Decide for Me.** Making important decisions can be difficult for most human beings. Having an “expert” make those decisions can sometimes be easier for the client. One of the most commonly encountered problems for lawyers in the counseling process is that the client wants the attorney to make the decision for them. After all that is what “they are paying the big bucks for.” The problem with this approach is that roles are being reversed and the attorney may be getting himself or herself into a professional trap. The core of client counseling is that the client must make the decisions. The role of the attorney is to chart out the alternatives and then make sure the client makes a fully informed and volitional decision. When the client says, “you decide”, this shows a need for more counseling. The professional trap for the lawyer is that when a particular matter turns out wrong, or with hindsight a “better” decision could have been made, if the lawyer truly made the decision, then responsibility for the result becomes “my lawyers fault”. A lawyer may counsel which alternative he or she feels may be best or wisest, but in all cases, the lawyer must take steps to make sure the decision is that of the client. An indecisive client needs more counseling and in certain circumstances, may benefit from a second opinion.