

Dealing with Clients in Crisis

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November 2024

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Dealing with Clients in Crisis

Crisis – Overview

“A perception or experiencing of an event or situations as an intolerable difficulty that exceeds a person’s current resources and coping mechanisms.”

A psychological reaction to a traumatic event

- Crisis involves a perceived threat
- When a person’s coping mechanisms break down in the face of a stressor, crisis results

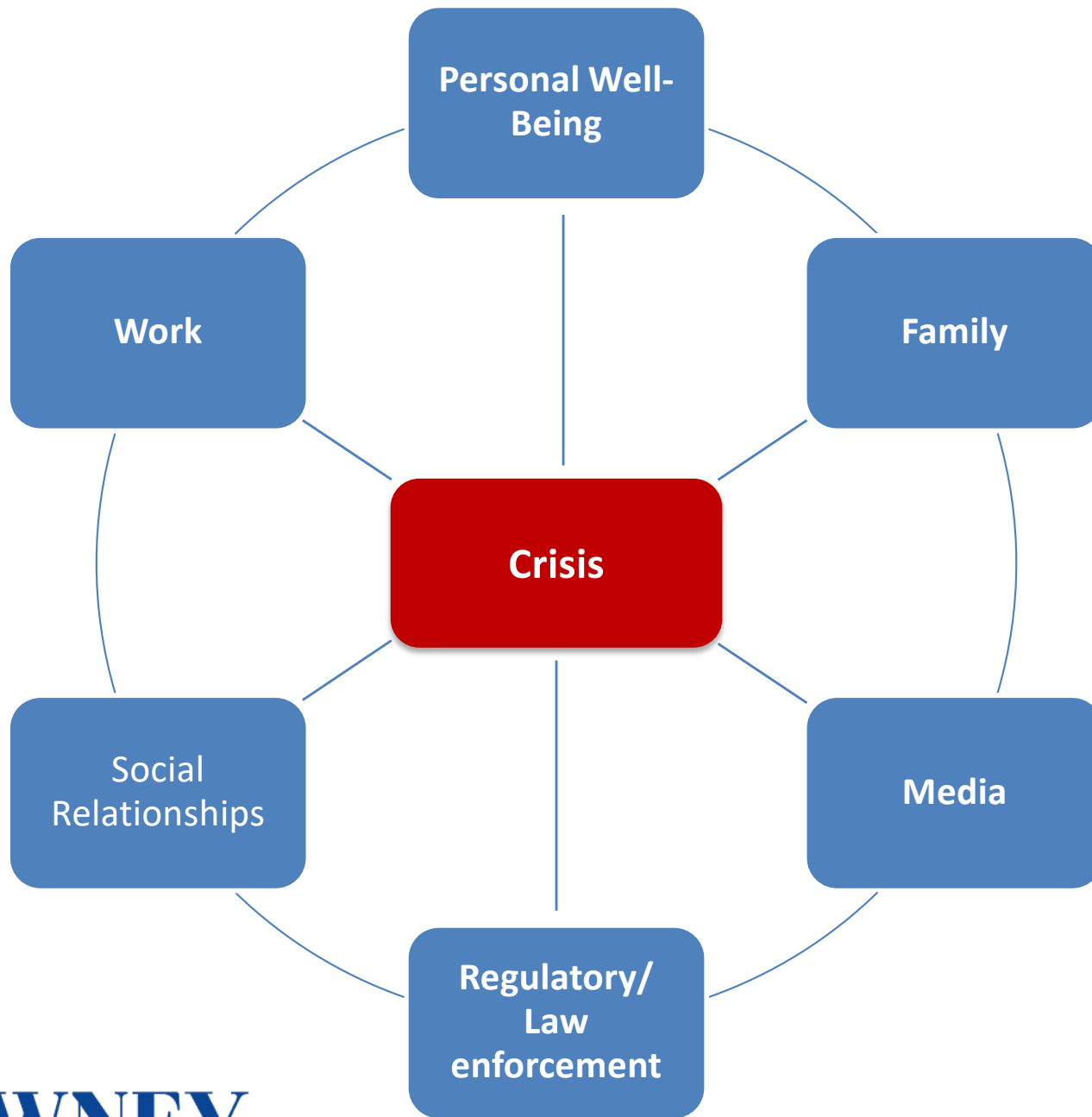
Megan Philips, Phillips Psychotherapy Services – PowerPoint for Ontario Municipal Social Services Administration (this and next few slides)

Characteristics of a Crisis

1. Crisis embodies both *danger* and *opportunity* for a person
2. *Emotional disequilibrium* or disorganization accompanies crisis
3. Crisis is usually *time limited*
4. Crisis may be *difficult to resolve* and *complex*
5. Crisis confronts people with choices
6. Quick fixes may not be applicable in many crisis situations
7. Life experiences of crisis greatly enhances the effectiveness of helpers in crisis intervention
8. Crisis contains the seeds of growth and impetus for change

Types of Crisis





Litigation Trauma

- Reliving painful experiences (often multiple times and from long ago)
- Trauma from litigation itself
 - Long
 - Poorly understood – by parties and those outside the litigation
- Intrusive
- Dehumanizing
- Public/revealing
- “What were you thinking?”

Crisis Intervention

Cushion the effects of the stressful event by providing immediate emotional and environmental first aid

Help strengthen the individual's coping strategies through therapeutic guidance

- Focuses on current situation
- Involves assessment of safety, immediate needs, and needs for immediate services
- Requires access to resources

6-Step Model to Crisis Intervention

- Define the problem
- Ensure client safety
- Provide support
- Examine alternatives
- Make plans
- Obtain commitment

Objectives of Six-Step Process

- Education
- Collaboration
- Empowerment

Ongoing, Intentional Assessment

- Severity of the crisis
- Presenting emotional state
- Emotional mobility/immobility
- Coping mechanisms
- Support systems
- Danger to self or others
- Possible de-escalation of the crisis

De-Escalation Skills for Clinicians

Non-Verbal Communication

- Eye Contact
- Facial Expression
- Body Language (Mirroring)
- Movement
- Giving Space
- Environmental Awareness

Para-Verbal Communication

- “How you say it”
- Tone of Voice
- Pitch of Voice
- Volume of Voice
- Pace of Speech
- Emphasis on Certain Words

Active Listening

- Pay Attention
- Don't Interrupt
- Validate / Affirm Feelings
- Empathize
- Summarize / Paraphrase
- Clarifying Questions (Avoid “Why”)
- Non-Verbal Cues (Nodding)

Building Rapport

- Introduce yourself –use their name
- Create hope – talk about the future
- Be Genuine
- Empathize
- Offer Options
- Make them say “Yes”

Questions for Individual in Crisis

- Do you feel a sense of hopelessness about the future?
- Are you contemplating harming yourself or others?
- Have you thought about hurting yourself?
- Can you tell me what you're feeling right now?
- Do you have a specific plan for self-harm or suicide?
- Have you been using alcohol or drugs since you have been having these feelings?
- Are there friends or family members who are aware of your current struggles?
- What coping strategies or techniques have you been using?
- Are you presently in a safe environment?
- Your safety is important to me. Can we talk about what we can do to keep you safe right now?
- Have you thought about a way that you would hurt yourself?

De-Escalation Questions

- I sense that you're feeling really overwhelmed right now, can we talk more about how you are feeling?
- I'm here to listen and support you through this.
- I can hear that this is really challenging for you.
- You're not alone in this. We can navigate through it together.
- Let's take a few deep breaths together.
- What are some coping strategies that have helped you in the past? We can try those together.
- It's understandable that life can be challenging. We can figure this out together.
- I've seen your resilience in our previous sessions. We can tap into that strength now.
- Let's create a plan together for when you're feeling overwhelmed.

Establish Rapport and Trust

- Discuss the crisis in detail
- Discuss possible actions and outcomes
- Allow expression of and validate client's emotions
- Gain client's support
- Use transparency to build rapport
- Be patient and assist with mitigation and response

Identify and Prioritize Goals

- Collaborate on priorities and goals
- Tailor response to client's unique needs
- Determine specialists or resources who should be involved
- Adjust goals based upon client's progress, emotional state, risk of harm, and adherence to plans

SMART Goals

- Specific
- Measurable
- Achievable
- Realistic
- Time-bound

Provide Appropriate Intervention

- Provide information, education, referrals, advocacy, counseling and other support
- Tailor interventions to client's situation, needs, and preferences
- Monitor and evaluate outcomes and adjust interventions as needed

Follow-Up, Provide Support, and Allow Closure

- Seek additional help from other as appropriate/necessary
- Avoid maintaining relationship too long



Ethics Rules

Rule 4-1.4

(a) A lawyer shall:

- (1) **keep the client reasonably informed** about the status of the matter;
- (2) promptly comply with reasonable requests for information; and
- (3) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer **shall explain a matter to the extent reasonably necessary** to permit the client to make informed decisions regarding the representation.

Rule 4-1.4 cmt [5]

In some circumstances, a lawyer may be justified in **delaying** transmission of information when the client would be likely to react imprudently to an immediate communication.

Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client.

A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person.

Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 4-3.4(c) directs compliance with such rules or orders.

Rule 4-2.1

In representing a client, a lawyer shall exercise independent professional judgment and **render candid advice**.

In rendering advice, **a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors** that may be relevant to the client's situation.

Rule 4-2.1 cmt

[1] A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, **a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.**

[2] Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a lawyer to refer to relevant moral and ethical considerations in giving advice. **Although a lawyer is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.**

[3] A client may expressly or impliedly ask the lawyer for purely technical advice. When such a request is made by a client experienced in legal matters, the lawyer may accept it at face value. When such a request is made by a client inexperienced in legal matters, however, the lawyer's responsibility as advisor may include indicating that more may be involved than strictly legal considerations.

Rule 4-2.1 cmt [4]

Matters that go beyond strictly legal questions may also be in the domain of another profession.

- Family matters can involve problems within the professional competence of psychiatry, clinical psychology, or social work;
- business matters can involve problems within the competence of the accounting profession or of financial specialists.

Where consultation with a professional in another field is itself something a competent lawyer would recommend, the lawyer should make such a recommendation. At the same time, a lawyer's advice at its best often consists of recommending a course of action in the face of conflicting recommendations of experts.

Rule 4-2.1 cmt [5]

In general, a lawyer is not expected to give advice until asked by the client. However, when a lawyer knows that a client proposes a course of action that is likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under Rule 4-1.4 may require that the lawyer offer advice if the client's course of action is related to the representation.

Similarly, when a matter is likely to involve litigation, it may be necessary under Rule 4-1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation.

A lawyer ordinarily has no duty to initiate investigation of a client's affairs or to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client's interest.

Rule 4-1.14(a)

When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

Rule 4-1.14(b)

When the lawyer reasonably believes that

- the client has diminished capacity;
- is at risk of substantial physical, financial or other harm unless action is taken; and
- cannot adequately act in the client's own interest,

the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a next friend, guardian ad litem, conservator or guardian.

Rule 4-1.14(c)

Information relating to the representation of a client with diminished capacity is **protected by Rule 4-1.6**.

When taking protective action pursuant to Rule 4-14(b), the lawyer is **impliedly authorized** under Rule 4-1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

Rule 4-1.14 cmt [5]

If a lawyer reasonably believes that a client is at risk of substantial physical, financial, or other harm unless action is taken and that a normal client-lawyer relationship cannot be maintained as provided in Rule 4-1.14(a) because the client lacks sufficient capacity to communicate or to make adequately considered decisions in connection with the representation, then Rule 4-1.14(b) permits the lawyer to take protective measures deemed necessary.

Such measures could include:

- consulting with family members
- using a reconsideration period to permit clarification or improvement of circumstances
- using voluntary surrogate decision-making tools such as durable powers of attorney or
- consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client.

Rule 4-1.14 cmt [5]

In taking any protective action, the lawyer should be guided by such factors as

- the wishes and values of the client to the extent known
- the client's best interests, and
- the goals of **intruding into the client's decision-making autonomy to the least extent feasible**, **maximizing client capacities** and **respecting the client's family and social connections**.

Rule 4-1.14 cmt [6]

In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as:

- the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision
- the substantive fairness of a decision and
- the consistency of a decision with the known long-term commitments and values of the client.

In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.

Rule 4-1.14 cmt [7]

If a legal representative has not been appointed, the lawyer should consider whether appointment of a next friend, guardian ad litem, conservator, or guardian is necessary to protect the client's interests.

Thus, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative.

In addition, rules of procedure in litigation sometimes provide that minors or persons with diminished capacity must be represented by a guardian or next friend if they do not have a general guardian.

In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require.

Evaluation of such circumstances is a **matter entrusted to the professional judgment of the lawyer**. In considering alternatives, however, the lawyer should be aware of any law that requires the lawyer to advocate the **least restrictive action on behalf of the client**.

Rule 4-1.14 cmt [8]

Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment.

Information relating to the representation is protected by Rule 4-1.6.

Therefore, unless authorized to do so, the lawyer may not disclose such information.

When taking protective action pursuant to Rule 4-1.14(b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, Rule 4-1.14(c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative.

At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client's interests before discussing matters related to the client. The lawyer's position in such cases is an unavoidably difficult one.

Rule 4-1.14 cmt [10]

A lawyer who acts on behalf of a person with seriously diminished capacity **in an emergency** should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action.

The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the person.

The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

Rule 4-1.14 cmt [9]

[In an emergency where the health, safety, or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter when the person or another acting in good faith on that person's behalf has consulted with the lawyer.

Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent, or other representative available.

The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm.

A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.

Rule 4-1.8(e)

A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance court costs and expenses of litigation, including medical evaluation of a client, the repayment of which may be contingent on the outcome of the matter; and
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.
- (3) a lawyer representing an indigent client pro bono may provide emergency financial assistance to the client, whether monetary or in-kind, for food, housing, transportation, medicine, and other basic necessities. The lawyer:
 - (i) may not promise, assure, or imply the availability of such emergency financial assistance prior to retention or as an inducement to continue the client-lawyer relationship after retention;
 - (ii) may not seek or accept reimbursement from the client, a relative of the client or anyone affiliated with the client; and
 - (iii) may not publicize or advertise a willingness to provide such emergency financial assistance to prospective clients.

Emergency financial assistance under this Rule may be provided even if the representation is eligible for fees under a fee-shifting statute.

Rule 4-3.6(a)

- A lawyer who is participating or has participated in
- the investigation or litigation of a matter
- shall not make an extrajudicial statement
- that the lawyer knows or reasonably should know
- will be disseminated by means of public communication and
- will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

Rule 4-3.6(d)

No lawyer associated in a firm or government agency with a lawyer subject to Rule 4-3.6(a) shall make a statement prohibited by Rule 4-3.6(a).

Rule 4-3.6(b)

Notwithstanding Rule 4-3.6(a), a lawyer may state:

- (1) the claim, offense, or defense involved, and, except when prohibited by law, the identity of the persons involved;
- (2) information contained in a public record;
- (3) that an investigation of a matter is in progress;
- (4) the scheduling or result of any step in litigation;
- (5) a request for assistance in obtaining evidence and information necessary thereto;
- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (7) in a criminal case, in addition to Rule 4-3.6(b)(1) to (b)(6):
 - (i) the identity, residence, occupation, and family status of the accused;
 - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
 - (iii) the fact, time, and place of arrest; and
 - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

Rule 4-3.6(c)

Notwithstanding Rule 4-3.6(a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client.

A statement made pursuant to this Rule 4-3.6(c) shall be limited to such information as is necessary to mitigate the recent adverse publicity.

Rule 4-1.2(f)

A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent,

but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Rule 4-8.4

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. . . . ;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) manifest by words or conduct, in representing a client, bias or prejudice, or engage in harassment,

Crisis Lawyering

(Based upon Ray Brescia & Eric Stern,
Beyond the Comfort Zone)

Plan for Possible Crises

- What are likely sources for crises in your practice?
- What are the likely consequences for such crises?
- What resources are needed to respond?
- What should be the “instant” response to such a crisis?
 - Resources contacted
 - Message to public
- What does the firm need to stay safe?

Be Flexible

Maintain a willingness and ability to participate in interdisciplinary and multi-professional teams.

Creativity is Critical

In novel situations, it may be difficult to rely on arguments, approaches, and tactics that they have utilized in other settings.

Manage Risk (Because You Can't Eliminate It)

It may not be possible to completely avoid or eliminate different kinds of risk (reputational, humanitarian, financial, political), so, do your best to minimize and contain it, and help your clients choose between different risks they're willing to run.

Work Quickly

Crisis Lawyers are often forced to deliver “quick and dirty” legal advice, which is often better than allowing highly consequential decisions to be taken without benefit of counsel.

Know Where Your Ethical Red Line Is

There might be times when a Crisis Lawyer must pull the “emergency brake” when core values are threatened. Know what those values are and where your red line is before crises hit.

Embrace an Ethic of Care

In highly stressful situations, do not lose sight of your own well-being and that of your team, your clients, and your community.

Build Trust

Engage with your team members and other stakeholders in formal and informal ways, and outside of crisis situations, in order to promote good will, facilitate proactive issue spotting, build personal and professional empathy, and promote compliance with the legal guidance.

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Be Thoughtful About How and When You Communicate Difficult Information

- Choose venues and formats (one-on-one or group settings, oral or written communication) carefully
- Adapt to the stress levels and cognitive styles of leaders/clients (big picture/detail oriented, “readers” and visual learners etc.) for maximum impact.

Be Flexible

Partner with Crisis Communicators: the lawyer's instinct to "say as little as possible" is not necessarily the right strategy in every situation.

Wrap-Up

(Megan Phillips, OMSSA Slides)

- Clients in crisis can evoke a strong emotional reaction in us
- Keep a cool head, a focused mind, and a calm demeanor
- Remind yourself that this client has capacities and capabilities to recover and grow from this moment
- Your role is to support and guide the process
- Your safety is critical
- Know your exits
- Often, admission to a mental health ward is the best option for clients who are unresponsive to crisis intervention support

Keys to Effective Representation in Crisis

- Responsiveness
- Competence
- Empathy
- Collaboration
- Leadership
- Assertiveness
- Perspective

Dealing With Unhappy Clients

1. *Respond rapidly.* If a client is unhappy, deal with it *immediately*. Your willingness to drop what you're doing to urgently discuss your client's concerns will by itself improve the situation.
2. *Listen without being defensive.* When someone is upset, emotions are like facts. Listen deeply, and thank your client for sharing their concerns with you.
3. *Say you're sorry.* Even if you think the blame is equally spread, apologizing can help to defuse the situation and begin a new dialog. It's hard to keep kicking someone when they apologize to you.
4. *Collaborate on the solution.* Don't jump too quickly to a solution ("We'll put a new project manager in immediately..."). Involve your client in developing it, and only do so after thoroughly understanding all of their concerns and the actual circumstances.
5. *Offer amends.* If in fact you have fallen short in some way, it can help to restore trust if you offer amends, e.g., doing a small piece of value-added work for the client, or reducing an invoice.
6. *Avoid excuses.* It's very natural to want to explain to the client all the reasons why you are not completely at fault, and why they may share some of the blame. But save that for later—if ever.
7. *Rebuild trust through small, frequent, confidence-building measures.* When trust is lost, you must increase transparency and communication, and show you can deliver on small, discrete, agreed-upon follow-up steps.
8. *Get things out into the open.* When negative emotions are kept in the dark, they fester and grow. When you get them out into the light of day, they shrink and often disappear.

Emergency Contact List

- **National Suicide Prevention Lifeline:** Call/text 988 or call 1-800-273-TALK (8255)
- **Crisis Intervention and Suicide Prevention Center:** Call/text 988 or call 1-800-273-TALK (8255)
- **Crisis Text Line:** Text “HELLO” or “BRAVE” or “CONNECT” or “HOME” to 741741
- **Veterans Crisis Line:** Call 988, then press 1 or call 1-800-273-TALK (8255)
- **Substance Abuse and Mental Health Services Administration:** Call 1-800-622-HELP (4357)
- **National Domestic Violence Hotline:** Call 1-800-799-SAFE (7233) or 206-518-9361 (Video phone for deaf callers)
- **National Alliance on Mental Illness Helpline:** Call 1-800-590-NAMI (6264) or text “Helpline” to 62640
- **Trevor Project (LGBTQ+ Youth Suicide Prevention):** Call 1-866-488-7386 or text “START” to 678678
- **Disaster Distress Helpline:** Call 1-800-985-5990 or text “TALKWITHUS” to 66746
- **Teen Line:** Call 1-310-855-4673 or 1-800-852-8336 or text “TEEN” to 839863
- **National Eating Disorders Association Helpline:** Call or text 1-800-931-2237
- **National Sexual Assault Hotline:** Call 1-800-656-HOPE (4673)
- **National Child Abuse Hotline:** Call 1-800-4-A-CHILD (422-4453)
- **National Parent Helpline:** Call 1-855-4APARENT (427-2736)
- **Trans Lifeline:** Call 1-877-565-8860
- **National Runaway Safeline:** Call 1-800-RUNAWAY (786-2929)
- **Postpartum Support International** Call 1-800-944-4773 or text “HELP” to 1-800-944-4773
- **National LGBTQ+ Hotline:** Call 1-888-843-4564
- **National Youth Crisis Hotline:** Call 1-800-442-HOPE (4673)

Thank you



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Conclusory Matters

- **Questions** – If you have questions after the program, please email them to Paige Tungate at ptungate@downeylawgroup.com
- **Post-Program Survey** – A survey will be emailed to you about 30 minutes after this program. Also, here is the survey link:

<https://www.surveymonkey.com/r/leader0924>

- **Certificate of Completion** – Available through the Post-Program Survey
- **Kansas Credit** – If you are seeking Kansas credit, you need to enter the **two Attendance Verification Words** and your Kansas information into the Post-Program Survey. *Please complete this information in the survey **this week**, so we can ensure you receive proper credit*



<https://www.surveymonkey.com/r/crisis1124>

Future Programs

November 19 - Tuesday at 3:00 PM CT - *[Legal Ethics and Fee Arrangements](#)*

December 4 - Wednesday at 12:00 Noon CT - *[Conflicts of Interest Update 2024](#)*

December 19 - Thursday at 12:00 Noon CT - *[Legal Ethics and Technology Update 2024](#)*

Register at www.downeyethicscle.com



<https://www.surveymonkey.com/r/crisis1124>

New Programs

(MO approved; awaiting KS approval)

January 8 -Wednesday at 12:00 Noon CT - *Legal Ethics Update 2025 - Part 1*

January 21 - Tuesday at 3:00 PM CT - *Addressing Bias - Ableism and Disability Discrimination*

February 6 - Thursday at 12:00 Noon CT - *Ethical Issues in Joining and Leaving a Law Firm*

February 19 - Wednesday at 12:00 Noon CT - *Privilege and Confidentiality Update*

February 27 – Thursday at 12:00 Noon CT – *Addressing Bias: LGBTQ+ and Gender Issues*

Special Co-Presenter – Sara Marler of Marler Law Partners

March 4 -Tuesday at 3:00 PM CT - *Legal Ethics of Lawyer Collaboration*

March 19 - Wednesday at 12:00 Noon CT - *Trust Accounting Quiz - With Prizes*

April 10 - Thursday at 12:00 Noon CT - *Legal Ethics and Client Development*

April 23 - Wednesday at 12:00 Noon CT - *Addressing Bias - Ableism and Disability Discrimination*

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