Motivational Interviewing: Tools for Client Counseling in Challenging Contexts

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Client Counseling & Change: A Heavy Lift

Parents involved in the child welfare system are told in many ways and in many settings that they need to change. As attorneys, social workers, and other professionals representing and working with these parents, we often counsel our clients to quickly change to increase their chances of successfully reunifying with their children and end child protective oversight over their families. We also counsel clients around challenging issues such as noncompliance with court orders, disagreeing with attorney decisions, and failing to follow legal advice. As professionals, we must recognize change does not occur overnight or by convincing or persuading clients to do what we think is right.

Changes can occur when communication between clients and professionals focuses on the clients’ commitment toward a certain goal and their motivation to change, while also maintaining a level of acceptance and understanding. Motivational interviewing fosters this communication and can be the catalyst for change.

Motivational Interviewing: From Attorney Directives to Supportive Engagement

Motivational interviewing is an integral component of staff training at the Center for Family Representation in New York City. It provides crucial tools for staff to counsel clients, regardless of their professional titles or backgrounds. Staff use motivational interviewing to have critical conversations with clients that exposes contradictions between clients’ thoughts and their actions. The technique helps motivate clients to change by placing their feelings, struggles, and humanity at the forefront of discussions and supports their self-determination.

Who Is It For?

Consider these examples:

- A mother says her child is the most important thing for her, yet routinely does not attend visitation even though her attorney has explained the consequences.
- A father accused of misusing alcohol says he will do anything to get his child back, but does not attend his program regularly or continues to test positive for drugs and alcohol.
- A mother, who loves her child, has been ordered to exclude a boyfriend from the home because he used excessive corporal punishment with her seven year old. She continues to let him back in.

In all of these situations, change can occur when the motivation comes directly from the person, rather than from a directive from a court, caseworker, or attorney. While motivational interviewing is not the approach
Background

William Miller and Stephen Rollnick, clinical psychologists, first introduced Motivational interviewing in the 1980s after observing trends in the substance abuse field that showed practitioners who took a more confrontational approach when interacting with clients worsened their outcomes for recovery. A large body of research shows that judgmental, sarcastic, and punitive interactions are positively correlated with defensiveness, noncompliance and failure. Motivational interviewing helps professionals harness the client’s commitment toward their goal and motivation to change, while maintaining a level of acceptance and understanding, rather than being directive or punitive.

The principles of motivational interviewing are easily remembered as **R.E.D.S.**:

- **Roll with the Resistance**: Resistance is not directly opposed; rather it is a signal to respond differently. There is a paradoxical element in this, which often brings the client back to a balanced or opposite perspective. This technique is helpful with clients who present in a highly oppositional manner and reject every idea or suggestion their attorney proposes.

- **Express Empathy**: When clients perceive empathy from a practitioner, they become more open to gentle challenges by him or her about lifestyle choices and decisions. Clients become more comfortable fully examining their ambivalence about change and less likely to defend ideas like their denial of problems.

- **Develop Discrepancy**: "Motivation for change occurs when people perceive a discrepancy between where they are and where they want to be." When clients perceive their current behaviors are not leading toward some important future goal, they become more motivated to make important life changes.

- **Support Self-Efficacy**: Self-efficacy is a client’s estimate or personal judgment of his/her own ability to reach a specific goal. The practitioner should focus on enhancing the client’s confidence, and the client is responsible for choosing and carrying out the change.

Motivational interviewing in practice can be best remembered with the acronym **O.A.R.S.**:

- **Open-ended questions**: This allows clients to create a forward momentum and creates space for dialog.

- **Affirmations**: Genuine recognitions of clients’ strengths. Are they following up with a program? Are they persevering amidst a challenging situation?

- **Reflective Listening**: Listening to clients to learn what has and hasn’t worked for them in the past and then restating the information back to them, with the purpose of helping examine their concerns, understandings, and justifications of their behavior.

- **Summaries**: An effective way to communicate your interest in a client, build rapport, call attention to elements of discussion, shift attention and direction and clarify the discrepancy between intention and action.

Motivational Interviewing in Practice

Consider what an attorney would do when working with a mother who has been ordered to exclude a boyfriend from her home because he used excessive corporal punishment with her seven year old, and yet she continues to let him back in. The obvious inclination is to remind the client about the court’s orders and
Motivational Interviewing: Ethical Considerations

The ethical rules attorneys must follow further support using motivational interviewing as a framework for structuring client counseling. Rather than being directive or authoritative with clients, we can use the principles and practices of motivational interviewing to develop productive, trusting relationships with clients and help them work towards their goals.

**Key Ethics Rules**

Model Rule 2.1 describes a lawyer’s crucial duty as not just an advocate, but an advisor to clients. Rule 1.2 outlines the division of authority in the attorney-client relationship, which can be summarized as the client having ultimate authority to determine the goal of the representation. Related to both of these, Rule 1.4 further elaborates on the lawyer’s duty to communicate with the client during the representation. With a trusting and productive client relationship, the attorney may be in a situation where the client discloses information that would harm his or her case, which implicates Rule 1.6 (Confidentiality).

Together these rules makes it clear that client counseling is a two-way street. Advising the client according to Rule 2.1 and communicating with them as required by Rule 1.4 consists of more than simply informing the client of what has or is likely to happen in a court appearance. Instead, it should involve input from the attorney and the client. Particularly in family law cases, this communication is frequently about clients’ personal struggles or conflicting goals, and the often-complex nature of client counseling is directly addressed by the Comments to Rule 2.1. Motivational interviewing can help illuminate issues the client may be struggling with and move the attorney and client forward as a team.

Of course, there are many times when the lawyer and the client disagree on the best methods to realize the client’s goals, which can be an excellent opportunity to use motivational interviewing techniques. Asking open-ended questions about why the client wishes to pursue a course of action, truly listening to the client, and reflecting the client’s statements back to the client for further consideration helps make the discussion one that respects the client’s desires, thoughts, and autonomy as the individual ultimately responsible for directing the case.
Motivational Interviewing in Practice

A common situation where the attorney and client may not see eye-to-eye on how to accomplish the client’s goals is whether and when to pursue a contested court proceeding. For instance, an attorney may feel the client has an excellent case to take to trial or other contested hearing, and the client has agreed to proceed. As the hearing draws closer, however, the attorney encounters resistance from the client, perhaps failing to keep office appointments to prepare for the hearing, or expresses hostility toward the case or the attorney. Rather than convincing the client of the legal merits of going forward with the hearing and the negative effect on their case if they do not, motivational interviewing provides tools to uncover the source of the client’s ambivalence, and in turn help foster the attorney-client relationship and work towards the client’s goals as a team.

In this example, the client may feel apprehensive about the outcome if they prevail at the hearing; perhaps the client is not truly ready to have their children return to their care and feels unable to admit that without seeming like a bad parent. On the other hand, perhaps the client is nervous about testifying and needs more help preparing; or the client may feel overwhelmed by the demands of the child welfare system and lacks the energy or resources to attend appointments at their lawyer’s office.

Aligning client counseling with attorneys’ ethical duties requires taking cues from the client about their desires and goals for the representation. Uncovering the complex nature of those goals and providing the best possible guidance takes time, patience, and the ability to truly listen to clients. Using motivational interviewing can help attorneys craft a sensitive, ethical response when counseling clients in challenging cases.

Endnotes


