



Raise Concerns Without Fear and Protect Confidentiality: Why the Two Orders?

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“Why the two orders?” was a question asked in a tense scene in the courtroom drama *A Few Good Men*, right before the famous “You can’t handle the truth!” speech. The question was in regards to a military general giving two orders whose premises were in contradiction with each other, and *spoiler alert* to anybody who has not yet seen the film. The movie concerns the military trial for two marines accused in the death of a private. The two marines claim they were ordered by superiors to give the private a “code red,” an illegal and harsh form of discipline, and the private died during the “code red.” The arrogant colonel tries to refute this claim and testifies that he specifically ordered the rest of the marines not to harm the private, and his orders are never disobeyed. The colonel also testifies that he ordered to have the private transferred off the military base because he believed the private was in danger. The lawyer, however, asks the colonel that if his orders are always obeyed, and he ordered the marines not to harm the private, then why would the private be in danger? Why would it be necessary to order the private transferred off the base, if he already ordered the marines not to harm the private? Why the two orders? This contradiction forces the colonel to admit the two orders were lies: there was no transfer order, and the colonel really did order the code red. The colonel thought he could lie and cover his bases by making it look like he was doing everything he could to protect the private. In attempting to cover up his lie, the colonel described two orders that each alone would have protected the private, but both orders together are a contradiction.

I was reminded of this scene during our most recent Annual Program Evaluation for our Child & Adolescent Psychiatry Fellowship. Yet again, we have to address the dilemma of the

trainees’ fear of retaliation in reporting concerns or incidents of harassment and discrimination. This is apparently not an uncommon problem [1], as I found out at the annual meeting of the Association of Academic Psychiatry this year. At the reception dinner, I found myself chatting with a program director who was still battling the “fear of retaliation” on the resident surveys. Even after instituting a resident retreat, a process group, increased transparency of rotations, and confidential methods to report concerns, our institutions’ surveys continue to report high levels of fear. It was difficult to think of what else could logically be done to diminish this fear.

The Accreditation Council for Graduate Medical Education (ACGME) Resident Survey Content Areas note that under “Evaluation,” residents are asked if they are “satisfied that evaluations of program are confidential” and “satisfied that evaluations of faculty members are confidential” [2]. Under “Resources,” they are asked if “residents/fellows can raise problems or concerns without fear of intimidation or retaliation” and are they “satisfied with your program’s process to deal confidentially with problems or concerns residents/fellows might have” [3]. The survey has not changed since 2011 to allow for historical tracking and reporting [4]. However, a previous version of the survey from 2007 to 2008 was evaluated and published [5]. In this earlier version, item #17 was written as, “Are mechanisms within the institution available to you so that you may raise and resolve issues without fear of intimidation or retaliation?” with 31.9% of responses indicating noncompliance. In the same year, item #7 asked whether trainees “have the opportunity to confidentially evaluate your faculty” and #8 asked the same about confidentially evaluating the program as a whole. These items were only rated as noncompliant in 3.8 and 8.2% of respondents, respectively. As a caveat, the use of surveys to accurately and truthfully assess residency programs is controversial [6]. Having said that, we might expect that high rates of confidentiality would be associated with lower rates of fear of retaliation or intimidation. However, despite the vast majority of programs being rated as compliant with issues of

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confidentiality, it was not associated with a reciprocal reduction in fear of retaliation or intimidation.

This is where we could learn a lesson from *A Few Good Men*. The possibility exists that each of these orders—maintain confidentiality and raise concerns without fear of intimidation/retaliation—would help the situation, but both orders together are a contradiction. The order to allow residents to raise concerns without fear of retaliation is the order that residents are not to be harmed, to diminish danger. But the order to protect confidentiality would only be necessary if there is a risk of danger, so the confidentiality mandate itself implies danger. Why would we have to protect trainees' confidentiality in raising concerns, if there should be no harm or danger in raising concerns? Why the two orders?

As psychiatrists, we should understand that this apparent discrepancy actually makes sense. If we only focus on the problem of fear of retaliation from raising concerns, and not the actual incidents of harassment, then confidentiality when raising concerns merely serves as avoidance learning: residents learn to avoid voicing their concerns directly, and faculty get to avoid addressing resident concerns directly. If we analogize “fear of retaliation” as a phobia or anxiety, then research has repeatedly shown that individuals with a phobia experience more positive outcomes after approach behavior, rather than avoidance behavior. To wit, a recent study published in the *Journal of the American Academy of Child & Adolescent Psychiatry* identified a dose-response relationship between the quantity of exposures and treatment outcome for youth with anxiety disorders, and that repeated sessions of gradually confronting youth to anxiety-provoking situations predicted better outcomes and the child's “sense of mastery” [7]. Rather than confidentiality or avoidance, perhaps direct exposure may better reduce fear of retaliation/intimidation.

Such a successfully-implemented model has been described by Fraser et al. [1]. The authors developed an Educational Climate Committee (ECC) at their institution tasked specifically with addressing residents' fear of retaliation reported on the ACGME resident survey. The ECC was composed of residents and faculty who examined “problematic interactions” in their Psychiatry department, and consulted with the Employee Assistance Program and the Office of Professionalism. Common themes identified in the problematic interactions were incivility, bullying, favoritism, and problems in feedback. The ECC organized workshops that were attended by residents and faculty, with topics discussing scenarios of incivility, improving methods of feedback, and teacher/learner exercises in professionalism. Departmental leadership gave feedback to individual faculty identified as sources of concern, some of whom required ongoing “coaching” of faculty members by peers. At times, faculty were moved to different clinical areas which best matched their teaching styles; no faculty were overtly “punished.” The ECC made five recommendations: (1) a no tolerance stance

towards bullying and incivility; (2) acknowledge and emphasize what is going well; (3) recognize those who demonstrate positive ways of handling difficult social interactions; (4) required remediation for incivility or bullying, including meeting with leadership, assigning a mentor, and potential referral to Office of Professionalism, and follow-up steps if remediation was unsuccessful; and (5) a revised reporting process for residents, including an initial attempt at the concerned party and the disruptive party meeting directly to problem-solve, with optional assistance from leadership. Following the implementation of these recommendations, the number of reported cases of intimidation decreased from seven to one, there were no cases of retaliation, and their ACGME survey results showed that double the number of residents felt able to voice their concerns without fear of retaliation. In returning to the phobia model, this group gradually exposed trainees and faculty to the anxiety-provoking situation of giving and receiving feedback, modulating the responses, and reducing the fear of retaliation. And, voila: improved functioning, greater sense of mastery, and reduced incidents of intimidation! This would be deemed a success by all intents and purposes.

However, the issue of resident confidentiality/anonymity was “never fully addressed” [1]. Some of the residents did not want their concerns heard outside the ECC. Some residents chose to speak directly to the offending faculty member, and others chose not to. The ECC ended up functioning as a “consultative group” offering assistance to residents to resolve their situation “without escalating it up the chain of command.” The authors seemed to leave the confidentiality question unanswered, but I will take it one step further: if programs are able to reduce fear of retaliation, reduce the number of cases of intimidation, eliminate retaliatory acts, and improve resident-faculty interactions, all without maintaining confidentiality, then why would confidentiality be necessary?

The mandate to ensure confidentiality is apparently not fulfilling its purpose in decreasing fear of retaliation. Additionally, fear of retaliation may not be the only reason that incidents of harassment or learner mistreatment are not reported. In addition to fear of negative consequences, harassment and discrimination may go unreported due to fear of being disbelieved, fear of embarrassment, or a lack of trust in the relevant authority figures to intervene appropriately [8]. Confidentiality may increase anxiety through acts of avoidance, and anxiety predicts the perception of fairness. Individuals with higher anxiety levels are more likely to evaluate potential outcomes as unfavorable towards them [9], and high anxiety leads to less confidence in receiving fair treatment. Confidentiality—by increasing avoidance and anxiety—may make trainees *less* confident that the program is taking their concerns seriously, because the trainees do not believe there would be any significant changes [10].

In summary, it is a distinct possibility that a focus on protecting trainee confidentiality increases rather than decreases

their fear of retaliation and intimidation, impedes their learning of conflict-resolution skills, decreases their belief that the system takes their concerns seriously, and lacks evidence suggesting it helps to minimize actual incidents of learner mistreatment. The Fraser model accomplishes the main goals of decreasing fear of retaliation, as well as actual incidents of harassment, but seemingly at the expense of confidentiality. Perhaps it is time to consider whether our two orders can coexist.

Compliance with Ethical Standards

This is a perspective paper with no IRB involvement and no research subjects.

Disclosures The author states that there is no conflict of interest.

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