

## Article 73

### **The Privileged Defense: Affluenza's Potential Impact on Counselors in Court Proceedings**

Ashley Clark

Clark, Ashley, PhD, NCC, DCC, ACS, is a recent graduate from Walden University's Counselor Education and Supervision program and current program manager for the Rappahannock Rapidan Community Services' Young Adult Coordinated Care program, an evidence-based early intervention program for adolescents and young adults experiencing the first onset of psychosis. Her research interests include disability issues in counseling and current approaches to multicultural counseling.

#### **Abstract**

Concerns regarding affluenza as an epidemic have been quietly raised in a sociological context and largely ignored in mainstream society for several decades. When the idea of affluenza was raised in the criminal court system by the defense's evaluating psychologist during a high profile manslaughter case, however, the concerns regarding effects of affluenza rose to the forefront. In fact, the trial of Ethan Couch, product of affluent parents, caused public outcry when an affluenza defense was noted as a potential contributor to a seemingly lenient sentence. This paper provides a brief overview of the history and development of the affluenza concept, evaluates the impact of affluenza through a systemic lens, reviews systemic influences in court rulings, discusses the potential impact of counselors' roles in the courtroom, and provides a case illustration to demonstrate this potential.

Recent court cases involving perceived leniency for Caucasian defendants, which has been attributed to wealth and privilege, have unearthed concerns with the social concept of *affluenza*. Making headlines in 2013, affluenza was introduced by a court appointed psychologist in the case, *State of Texas v. Ethan Couch* (Watkins, 2014). The psychologist's report, describing Couch as a product of affluenza, associated with a lack of positive parental guidance and belief that sociological rules do not apply, drew media scrutiny when defense attorneys utilized the term in arguing for a reduced sentence. Faced with a maximum of 20 years in prison after being convicted of four counts of intoxication manslaughter, the presiding judge handed down a much lesser sentence. Specifically, Couch received a sentence of 2 years in a residential counseling program with 10 years of probation, while Couch's parents were held financially liable by the state

for the cost of treatment, which was identified to cost as much as \$450,000 per year (Zhu, 2014).

The perceived leniency regarding the court's sentence, association with the means of only the financially wealthy, and novelty of the *affluenza* term as a behavioral concern, in turn, resulted in a public firestorm hung on a misconceived definition of *affluenza* (Patrice, 2014). Assessed as both lenient and a response to a successful *affluenza* defense, the Couch verdict became the example for *affluenza* concerns. Through this lens, *affluenza* became synonymous with a belief that money could buy justice, especially when parents of privilege repeatedly allowed their children to avoid the natural consequences for their negative behaviors.

Played out in media outlets as a defense for the privileged upper class, the true essence of the *affluenza* concept is far more outreaching, the potential to misuse the *affluenza* defense far greater, and the social consequences of a successful *affluenza* excuse far more detrimental. Given that a forensic evaluator from the field of social science newly introduced this concept into the courts, the concept appears to have been given some weight in decision making, and questions of accountability or lack thereof have been raised (Zhu, 2014). It is imperative for counselors, especially those appearing before a court, to understand the premise of *affluenza* and the impact of an *affluenza* defense in individual and family responsibilities. Therefore, the purpose of this article is to explore the origins and fundamental meanings of *affluenza*, to evaluate whether *affluenza* is purely a White or high socioeconomic defense, to investigate the impact of an *affluenza* defense on individual and family responsibilities, and to begin the discussion of the overall impact of an *affluenza* defense in the counseling profession.

### **History and Definition**

Although the concept of *affluenza* emerged with the Public Broadcasting System's two-part special, *Affluenza*, exploring the social implications of an increasing focus on materialism, including increased deterioration of both the community and environment, in July 1998 (PBS, n.d.), the presence of *affluenza* can be traced back several centuries. While the earliest American settlers, including the Quakers and Puritans, believed that individual wealth was not defined by the amount of material possessions an individual had and instead was characterized by individuals living happy, prosperous existences and adhering to the value of social service, the opportunity for colonization overshadowed the focus on these principles of simplicity and community (de Graaf, Wann, & Naylor, 2014). In effect, the simplicity practiced by some early settlers was demolished by the rise of opportunities for conspicuous consumption.

Over time, the appeal of wealth and privilege proved too much for many Americans. By the middle of the 19<sup>th</sup> century, it became apparent that the desire for increased material possessions surpassed concerns relative to the outcomes (United Nations Department of Economic and Social Affairs, 2011). Consequently, greater division between social classes arose from a desire to "keep up with the Jones." Ultimately, as de Graaf et al. (2014) pointed out, this overconsumption and overspending resulted in the Great Depression. Still, materialism and consumerism continued to prosper throughout this period, taking only a small recess to address the needs of the country during World War I and World War II.

In the aforementioned examples, the actions eventually labeled as *affluenza* shaped the history of the country and the development of distinct social classes. As the rich grew richer, the gap between classes widened, and the poor became poorer. Opponents of increased consumption became more vocal, and in 1997, de Graaf and his team developed a term to describe the trend which they observed (de Graaf et al., 2014). The original release of *Affluenza*, and its eventual rebroadcast as the first part of a two-part series, transformed the concept identified previously as consumerism with the significantly more negative connotation of affluenza. In fact, de Graaf et al. (2014) have maintained the definition of affluenza as “a painful, contagious, socially transmitted condition of overload, debt, anxiety, and waste resulting from the dogged pursuit of more” (p. 2). In this original definition, all individuals regardless of social class are at risk for developing affluenza because it occurs when individuals seek more than they have, potentially in an attempt to keep up with others. The importance placed on material wealth is echoed within the community as possessing wealth has become synonymous with power, prestige, and happiness.

### **The Potential Impact of Affluenza**

In the 19 years since the introduction of the affluenza concept, the term has largely been evaluated within an economic and sociological context. According to Lorenzi, Zhang, and Friedmann (2010), affluenza has existed in various civilizations. Although historical attempts to reduce affluenza have focused on decreasing this trend through negative reinforcement, these efforts have not always been successful. For example, higher taxes on cigarettes have not deterred some smokers from participating in the activity, and outlawing liquor during prohibition did not persuade individuals to discontinue consumption. Without efficient ways to address the potential negative outcomes of affluenza and question the value placed on an appearance of material wealth, affluenza has existed as an epidemic largely ignored within research (Patrice, 2014).

In utilizing “affluenza” in his report to describe Couch’s culpability or lack of culpability, however, the evaluating psychologist took the historically sociological and economic term and applied it within a counseling and legal context. By making this transition without an empirical basis, the understanding of the term was quickly transformed from the intended definition by combining the definitions of the two root words, “affluence” and “influenza,” to infer a rich person’s disease of entitlement. Although Medeiros (2006) acknowledged that there is no consensus about the specific wealth necessary to be considered affluent, he noted that the variable definition of wealth identifies affluence as those considered financially well-off or rich. Influenza, on the other hand, refers to a highly contagious virus. According to Harmon and Cruz-Camara (2008), the initial choice of combining these two terms “was designed to highlight excess craving for material possessions as a disease or disorder” (p. 87); however, the social definition of affluenza identified as a result of its utilization in the Couch case involves a disease of entitlement attributed to wealthy individuals.

## **Affluenza and Culture**

Questions regarding the use of affluenza as a defense for criminal or negative behaviors have arisen based on racial and socioeconomic divisions. Labeled as “the criminality of the wealthy” (Zhu, 2014) and associated with the defendant’s Caucasian background, the affluenza verdict resulted in the emergence of concerns about the lack of a *povertitis* defense. Affluenza focuses on individuals’ desires for material possessions out of want as opposed to need, while povertitis involves the obtainment of needs in order to survive. According to the United Nations Department of Economic and Social Affairs (2011), povertitis, similar to affluenza, is a social disease. Given a lack of material resources, individuals may make decisions to involve themselves in criminal activities. Without assistance from the wealthy, individuals in the lower socioeconomic classes must act in order to sustain a minimal standard of living (Adams & Jeanrenaud, 2008). Based on this view, individuals commit crime to gain material resources and sustain their existence. Therefore, a povertitis defense would argue for reduced culpability for individuals from lower socioeconomic classes convicted of crimes on the basis that the individuals were driven to the behavior due to a desire to rise above their current socioeconomic placement.

The social epidemic of affluenza, in which individuals seek more due to a perceived need for satisfaction, and that of povertitis, in which individuals are driven to obtain more material wealth due to a perceived need for survival, are, therefore, closely related. In fact, technically speaking, povertitis is actually a subset of affluenza. While individuals likely differ based on their perceived survival needs, affluenza and povertitis are, in effect, not racial or socioeconomic phenomenon. As such, the elements of an affluenza or povertitis defense have applicability across cultural boundaries.

## **Courts’ Systemic Approaches to Adolescent Behavior**

Although the Couch case resulted in a great deal of public outcry due to the focus placed on systemic factors of crime, attempts to understand the function of adolescent criminal behavior through a systemic lens are not new. Systemic theories of human behavior expand the understanding of behavioral factors and issues from the context of smaller family subsystems to larger social systems (Titelman, 2013). Introduced by a biologist in 1950, general systems theory has been expanded to numerous other professional disciplines to understand and predict human behavior. In addition to their predictive value, systems theories have also been used to treat or address behavior (Luhmann, 2014). Concerns related to the social effects of crime have resulted in numerous systemic approaches within the criminal justice system, especially provisions of criminal, civil, and therapeutic consequences on the family for the behaviors of their children.

### **Civil Consequences**

In 48 out of the 50 states, tort laws confer financial responsibility on parents for the criminal or civil acts of their children. According to the Office of Juvenile Justice and Delinquency Program (OJJDP; n.d.), such laws focus on both prevention and punishment of parents and children for the illegal acts of minor children. These laws are based on the

premise that the threat of civil liability will increase parental focus on monitoring their children's behavior. Developed at the state level, tort laws vary regarding the maximum amount for which parents can be held responsible as well as the age at which the parents are no longer responsible for the behavior of their children. Despite their widespread use, however, research has failed to demonstrate the effectiveness of tort laws (Cardi, Penfield, & Yoon, 2012).

### **Criminal Consequences**

With the lack of research pointing to the efficacy of civil consequences for parents to address the negative and sometimes criminal behaviors of their children in the hope of reducing their occurrence, several states and jurisdictions have expanded parental responsibility to a criminal level. OJJDP (n.d.) identified, for example, that parents in some states can be charged with contributing to the delinquency of a minor. Although such charges can be levied against parents for direct violations of law, such as giving underage individuals alcohol, individuals can also be held criminally responsible for neglectful parenting that results in the commission of a crime. For instance, parents who allow their underage child to stay out all night without parental supervision could be held responsible when that child breaks into their neighbor's home. Despite the presence of such laws, however, criminal consequences for parental accountability are often not pursued due to a lack of public support and concern that such laws provide too much power to the government in managing how individuals parent their children. Moreover, empirical evidence supporting this approach is relatively nonexistent (Brank, Hays, & Weisz, 2006).

### **Additional Consequences**

With a lack of efficacy regarding civil and criminal consequences for parents of children convicted of criminal behaviors, coupled with a continued desire to increase parental accountability, many states have sought a more therapeutic approach by requiring parents to participate in court proceedings. According to OJJDP (n.d), some courts expand this mandated participation beyond court proceedings to family counseling services. Unlike the consequences placed on parents discussed above, Tighe, Pistrang, Casdagli, Baruch, and Butler (2012) noted that consequences that involve systemic services to both parents and adolescent offenders are empirically supported as effective in reducing recidivism among adolescents. In addition to the parents' involvement in counseling services, the adolescent is often involved in juvenile probation to monitor behavior.

## **When Counseling and Courts Collide**

Court ordered therapeutic services engage counseling professionals into an already established relationship between the court and family. The initiation of counselor involvement through an already established relationship is only one way in which counselors and the criminal justice system collide. While a client or family may be mandated to counseling through a court judgment, counselors may be compelled into the courtroom through subpoenas or court orders to discuss observations obtained from the therapeutic relationships. According to Lyons (2013), the vast majority of counselors,

even those who do not work directly with couples or families, will be called into the courtroom to testify as “fact witnesses.” Unlike expert witnesses, who focus on their general knowledge of concepts, fact witnesses testify on personal knowledge of situations, offering observations as opposed to opinions and suppositions (Lyons, 2013).

While counselors serving in the role of fact witnesses are intended to report on observations, the complexities of the court process and skills of the attorneys may often blur these lines. According to the Psychological Center for Expert Testimony (2014), skilled legal counsel often ask counselors to provide observations followed by opinions regarding their meaning. While counselors seek to adhere to the ethical foundations of reporting, however, they are often overwhelmed by the legal counsel’s approach, making it difficult to maintain a report that only includes observations.

### **Affluenza and the Counseling Role**

In order to understand affluenza as a defense, one must return to the consideration of the systemic forces responsible for its development. Cardi and colleagues’ (2012) notation of parents’ responsibilities to reasonably manage the behavior of their children and the potential criminalization of a failure to do so has noteworthy potential consequences as the courts continue to hear and rule on these cases. If parents’ failures to provide appropriate consequences for their children’s behavior could lead to a considerable disregard for law, such as that demonstrated in the Couch case, then the potential for such parenting to be considered neglectful or abusive must be considered. This precedent should be considered within the role of counseling especially when working with family systems and adolescents in particular. Because this potential is vast, a discussion of these possibilities is essential.

Professional counselors are held to a standard of conduct not only by the ethical guidelines outlined in the American Counseling Association (2014) *Code of Ethics* but also the legal guidelines set forth by federal, state, and local jurisdictions. Although these guidelines are often congruent, some instances occur which involve an incongruence between ethical and legal guidelines or subjectivity, which complicates appropriate decision making. One area in which confusion may arise is that of confidentiality and the exceptions to this therapeutic expectation.

Although mandated reporting laws are in place in all 50 states, the District of Columbia, and United States territories, the Child Welfare Information Gateway (2012) noted that each individual state establishes its own guidelines as to which individuals such laws apply and what standards of reporting are in place. In general, mandated reporting laws apply to individuals who work in a professional capacity with children, individuals with disabilities, and the elderly. Consequently, the duty to report suspected abuse or neglect of these populations trumps ethical obligations of confidentiality.

Primarily, counselors are tasked with making decisions on reporting four types of abuse: 1) physical abuse, 2) emotional abuse, 3) sexual abuse, and 4) neglect (Henderson, 2013). In making these decisions, professional counselors are held to the federal definition of child abuse as a minimum standard. Specifically, the standard developed by the United States Department of Health and Human Services (2011) reads “any act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation” (para. 1). In fact, the standard further

identifies that even the potential for imminent risk can rise to the level of child abuse requiring mandated reporters to act.

Unfortunately, Levi and Crowell (2011) argued that the standards of reasonable suspicion necessary to make these reports lack consensus in definition among experts. This makes it increasingly difficult for counseling professionals, especially novice ones, to make decisions about when and if to report. Without the establishment of a consistent and interpretable standard, counseling professionals risk the potential of damaging the therapeutic relationship unnecessarily or failing to protect children when a report should have been filed. Therefore, Levi and Portwood (2011) noted the importance of simplifying standards as opposed to complicating them further.

Cases involving physical or sexual abuse are often more easy to identify due to the presence of observable signs. Signs of emotional abuse and neglect, on the other hand, are often less visible (Morelen & Shaffer, 2012). Making the decision to report more difficult, the Child Welfare Information Gateway (2012) identified the specific lack of guidance in defining emotional abuse or neglect. Specifically, standards allude to behaviors which result in anxiety, depression, withdrawal, aggression, or various other psychosocial symptoms in a child that are not normal for the child's age or deprive a child of elements necessary to survive. Behaviors on the part of a parent that can be attributed to poverty, on the other hand, are noted as exceptions to this standard.

The notation within the standards for identifying emotional abuse and neglect regarding abnormal experiences of anxiety, depression, withdrawal, and aggression, among others for a child's age, result in even more opportunities for interpretation regarding the affluenza concept. Do the standards as written imply that a family with the means must use those means to ensure that a child does not experience abnormal anxiety or depression? If a child begins to socially isolate because the child does not have the brand new expensive shoes like the popular kids in school own, does that rise to the level of the reporting standard? Does the interpretation of the standards change if the child experiences bullying as a result of not owning the newest shoes and begins to self-harm? What happens if that same child begins to steal shoes out of other students' lockers? If the individual's parents do not have the means to purchase the items, then it would likely be covered under the poverty exception to the rule, but what if the family has the means but refuses to use them? While these questions may be speculative in nature, they represent an interpretation that could actually encourage affluenza or the desire for more and make questions of reporting even more confusing.

The financial consequences for the parents of Ethan Couch and subsequent responsibility associated with civil suits demonstrate an interpretation that, in some way or another, Ethan's parents were responsible for his poor choices and negative behaviors. Looking at the notation of imminent risk (United States Department of Health and Human Services, 2011), the question could be posed as to whether his parents could have known that their child could engage in behaviors not typical of his age that resulted in the deaths of four and injury of others. Were his parents so influenced by the desire to want more that this rose to the level of abuse? Take into consideration another case of parents that both work or a single parent who works extra hours to provide amenities to their children. Would these cases rise to the level of affluenza if the family could maintain under one standard income? Could these parents reasonably believe that the reduced supervision or time with family could lead their children to participate in the behaviors of

Couch? All these questions are pertinent to the standards and would only further complicate the already difficult decisions of counselors as to when and whether to report (Morelen & Shaffer, 2012). In fact, children instilled with a desire to be successful and work as doctors and lawyers could be questioned as to whether their parents' push for their success constitutes affluenza. Those who have more clothes or toys than they need could also fall into this category, making it virtually impossible for counselors to develop therapeutic relationships without having to report the potential occurrence of affluenza.

If utilizing the first definition of affluenza, in which parents encourage their children to be financially successful, seems too outlandish, prospects for utilizing the second definition, the one used in the Couch case, may seem even more concerning. Understanding affluenza to entail a failure on the part of the parents to provide appropriate consequences for their children's actions, whether or not this is due to wealth and privilege, will further complicate mandated reporting decisions. In fact, Tyuse, Hong, and Stretch (2010) argued that parenting skills is one of the factors associated with the success of systemic programs in the maintenance of children in the home. Often these deficiencies in parenting are not a product of gross neglect but instead a lack of knowledge and awareness about the appropriate ways to parent. Therefore, if a parent fails to provide appropriate consequences for a child who is throwing a tantrum, there is an opportunity to educate the parent on potentially more effective approaches to dealing with the child's behaviors. Making a report each time a parent fails to act in what may be considered the most effective way to parent, on the other hand, would flood child reporting agencies with countless calls, making it impossible for such agencies to respond to the most significant of these calls.

### **Affluenza and Ethical Decision Making**

While the presence of affluenza as a potential defense in the court system or method to hold parents accountable is in its infancy and might never materialize into something official, counselors must equip themselves to respond. Failure to understand its presence does not equate to a defense in the event that a counselor's behavior is called into question. Given the abundance of possible implications, use of an ethical decision making process must be employed. The following case illustration and employment of an ethical decision making process provides guidance for counselors potentially faced with these issues.

#### **Case Illustration**

Rashad and Esmeralda share custody of their 15-year-old daughter, Jennie. The couple's problems began when Jennie was 10 and her father took a job driving tractor trailers across country, which barely provided enough financially for his family. Long trips on the road keep Rashad away from his family most nights. Although he tried to stay involved as much as possible by calling every day to talk to his wife and kids, the couple soon grew apart. A year into this arrangement, Esmeralda met Phillippe, a successful cardiac surgeon and began an affair. When Rashad found out, he provided Esmeralda with an ultimatum, and she decided that she no longer wanted to be married to Rashad. Three months later, she and Jennie moved in with Phillippe and 9 months later,

her divorce from Rashad was finalized. Esmeralda and Phillippe married 6 months later. Jennie was 12 at the time.

The changes associated with moving from a small two bedroom, one bath home where she lived with her parents to the significantly larger five bedroom, five bathroom house was significant. Jennie went from a child of little means to one with substantial means. She went from a house with no yard to a house equipped with a pool, tennis courts, and various other amenities. She went from a lower socioeconomic class slightly over the poverty level to a substantially more wealthy socioeconomic class. Because Phillippe had accepted Jennie as if she was his own, she wanted for nothing. Her secondhand clothes were replaced with a wardrobe that meant she never had to wear the same outfit twice. Her birthday parties went from small family occasions at her grandmother's to lavish parties with dozens of her friends at the local country club.

Jennie's father recently filed a motion for full custody of his daughter, citing his former wife as neglectful and emotionally abusive. He requests that the court order counseling services for his daughter due to concerns about his daughter's "significant behaviors and personality" changes. He described Jennie as "entitled and ungrateful," noting that she went from a straight A student to getting B's and C's. Most recently, he noted that his daughter was given an in-school suspension for being disrespectful to her mathematics teacher. Ultimately, Rashad blames his wife for these changes and states that she "is the problem" because she has become one of "those rich reality television housewives who is more concerned about being wealthy than parenting Jennie." He explains that his wife never punished Jennie for her suspension and has done nothing about her grades or behaviors. He notes that his ex-wife chalks everything up to "normal adolescent behaviors."

During the preliminary custody hearing, the judge orders Jennie and her family to therapy. The judge notes that the counselor should work with Jennie and her family to attempt to address Jennie's behaviors. While the therapist will not be called as the custody evaluator, the potential for the family to subpoena them for testimony is great.

The therapist, Marco, is assigned the case. After meeting with Esmeralda and Rashad separately to gain insight into the issues faced, Rashad reports that what he stated in court was only a small portion of his overall concerns. Rashad notes that his daughter has been caught twice for shoplifting alcohol from the local convenience store but avoided prosecution because "Phillippe paid off the convenience store clerk." Rashad reveals that he has seen so many instances in the news where privileged children avoid consequences as adolescents only to be convicted as adults of unspeakable crimes. He states that his daughter is in danger of becoming like those other privileged children and argues, after receiving informed consent, that he believes the counselor should report his ex-wife. Marco is extremely concerned about the ethical implications of his role in this case. He is familiar with the concept of affluenza but is unclear as to what the court's ruling in the Couch case means for his role both as a mandated reporter and a court ordered therapist. In order to make a determination regarding what he needs to do, Marco must consult the standards of mandating reporting in his locality and employ an ethical decision making model to determine his best course of action. Still, Marco is concerned about the role of money and means between these very different parental philosophies.

### **The Ethical Decision Making Process**

From his previous experience in making decisions, Marco identifies Forester-Miller and Davis's (1996) model of decision making as the most effective. Identifying the problem, Marco takes a comprehensive inventory of the issues faced. Marco knows that he is a mandated reporter. He also knows that Texas, the state in which he is currently practicing, has regulations that require him to act in the event of suspected abuse and neglect (Texas Department of Family and Protective Services, 2015). In addition, recent changes in regulations reflect a broader standard for the definition of these terms, resulting in the inclusion of any behavior that has the potential to negatively impact an individual's physical or psychological health (Southern Methodist University, n.d.). While he understands that those who report in good faith cannot be held civilly or criminally responsible, he also wants to make an appropriate decision for his client.

Marcus recognizes that many of Rashad's concern might be valid given that a significant number of clients that he encountered as a prison counselor had similar experiences in which their parents had bailed them out of criminal issues as teenagers only to be arrested for more serious crimes as adults. In the majority of these cases, Marcus notes that his clients identified a belief that receiving consequences as children may have kept them from trouble as adults. Marcus also reasons, however, that poor parenting skills are not necessarily a reportable offense. In fact, Texas law alludes to willful acts as being a component of reportable events (Texas Department of Family and Protective Services, 2015). In the event that Marco takes the path of not reporting when it should be reported, he also knows that he could be held criminally responsible based on Texas law. For Marcus, the problem becomes whether or not to report Rashad's concerns all while protecting the therapeutic relationship.

Looking for guidance, Marco then consults the ACA (2015) *Code of Ethics*. While Marco believes that several sections of the code are applicable in this case, he notes that those sections covering confidentiality and exceptions to confidentiality are the most applicable. A review of these sections further support Marco's concern. Marco knows that his role as part of a court mandated service requires him to report on specific observations and compliance with treatment. He also knows that he should provide minimal disclosure in cases where disclosure is appropriate. Still, issues of foreseeable harm are foremost in his mind.

With still no plan in place, Marco reviews the nature and dimensions of the dilemma he is facing. As Forester-Miller and Davis (1996) pointed out, this is the step in the decision making process which involves addressing the five fundamental principles of autonomy, beneficence, fidelity, justice, and nonmaleficence. While Marco believes that it is important to talk to Jennie to determine the extent of the issues, he also knows that if things are as Rashad says they are, she is unlikely to want to report that her mother and stepfather are giving her too many freedoms. Marco understands that he must balance a desire to be proactive in preventing harm with decisions that may further create it. He, therefore, seeks consultation from his mentor, Kola, to make an informed decision.

With Kola's help, Marco decides that he should talk with Jennie to assess the accuracy of Rashad's reports. If Jennie appears to be at imminent risk of harm, then and only then, will he make a report. On the other hand, if there is no reason to report, Marco will work directly with Esmeralda to help her develop potentially more effective parenting skills. Marco understands that he must be able to support any action he takes

with sound reasoning and realizes that breaking confidentiality in a case where it is unclear as to whether behaviors fit under the category of abuse and neglect might likely result in unnecessarily damaging the therapeutic relationship. Once he is able to implement this decision, he can monitor for additional behaviors and observations that may intensify his concerns.

### **Reflection**

According to Rohrbaugh (2008), the role of therapists in custody cases is different than the role of the evaluator insofar as the identified client benefits from the establishment of confidentiality. Unfortunately, an exception to this confidentiality occurs whenever there is the identification or suspicion of child abuse or neglect. In the case illustration, it appears that the court has established Jennie as the client for services, resulting in the ability for the therapist to build an effective therapeutic relationship through the boundaries of confidentiality. This therapeutic relationship may be harmed if the therapist is required to report the notation of affluenza. If Jennie were to reveal, for example, that she wishes to live with her mother and stepfather because she does not want to return to being one of “those poor kids,” for example, would this rise to the level of report, given an identification that the child is so driven by material gain that she is unable to make a determination of which parental structure is more beneficial for her development into a productive member of society? The reality is that this could be interpreted multiple ways under the guise of affluenza, resulting in individual therapists making individual calls regarding whether to report.

While the rich sociopolitical history of the affluenza concept provides evidence of the ill effects associated with a desire for more, it provides little guidance on issues of parenting, accountability, and child abuse and neglect. Interactions between court systems and the counseling profession are already complicated (Tighe et al., 2012). If counselors are forced to report on issues that border between uninformed parenting and potentially neglectful or abusive parenting without clear guidance, the therapeutic relationship may be unnecessarily harmed. Moreover, the status of the government’s power in parenting may also be forever changed.

### **Conclusion**

The mental health provider’s introduction of the affluenza concept within the court system and potential court’s acceptance of the affluenza defense raise various concerns and considerations for counseling professionals, especially those who may be called to provide testimony. While such credibility is a testament to growth within the field, the introduction of concepts, which lack empirical basis but are taken as fact, may have detrimental effects on consumers involved in court proceedings. Furthermore, the subjectivity of definition, which mirrors concerns associated with duty to warn regulations set forth by the Tarasoff warning, pose a potential issue of liability in balancing the duty to protect and confidentiality, while providing a focus on rehabilitation as opposed to punishment. As such, more research into the concept of affluenza and its impact on child rearing would be beneficial.

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*Note: This paper is part of the annual VISTAS project sponsored by the American Counseling Association. Find more information on the project at: <http://www.counseling.org/knowledge-center/vistas>*