

Listening for lawyers: An introduction to the Interpersonal Neurobiology perspective with a case study and annotated bibliography

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Listening is a complex and multi-level process. Mindfulness and attachment-personality-brain hemisphere theory provide two valuable pieces of the puzzle: *how to listen and what to listen for*. Most of the materials in the bibliography below are centered around the Interpersonal Neurobiology perspective, which includes fields such as psychotherapeutic client-centered concepts, neurobiology, mindfulness, psychology, attachment, neo-cortex hemisphere theory. The latter four topics are summarized in this article and then tied together with a case study.

How to listen

Mindfulness has exploded with scientific research and theoretical articles. For lawyers, we can gain value from the insights into *how* to listen, or in mindful terms –gain awareness of what our clients are asking for or needing even if they cannot say it directly. Mindfulness is a complex topic and difficult to define, perhaps because the definition depends on the needs of the person defining it. For me, I believe the essential elements common to all mindful approaches are: being **Calm, Understanding, Present**, while engaging with **Care, Observation, Curiosity, Openness, Acceptance, Reflections, awareness of NonVerbal (share a CUP of COCOA in Reno, NV)**. These concepts, none of which are easy, form a core of how to listen and provide respect to the person you are working with. The larger goal is to help the person integrate their neural functions so they can make the best choices given their circumstances.

Caring includes concepts such as empathy, sympathy, and compassion, as well as being warm, kind and taking delight in the humanity of the person you are working with. Observing, often emphasized and elaborated in mindful traditions includes being present, attentive, intentional, fully experiencing the moment, describing and labeling feelings with words, and being genuine and authentic. Robert Altman expands observing to Intentionally Centering Attention Now (ICAN). Curiosity involves being interested, playful, leaning into the emotions and feelings, and exploring. Openness and acceptance may be the most challenging for lawyers trained to spot issues and evaluate claims and issues. Openness involves being nonjudgmental, non-attached, willing to fully see someone else's experience, being free from one's own internal evaluation, transparent, and appropriately sharing of your experience. Accepting involves being non-evaluative, expressing unconditional positive regard, validating without necessarily approving or agreeing), being affected by the other's experience with awareness and reduction of reactivity, and accepting thoughts and feelings of the other without being "hooked." Lawyers need to critically evaluate cases, but this may be better done *after* fully understanding the client, and this especially true for high conflict type clients.

Reflections involve reflecting back the other's feelings, experiences and needs with frequent micro-reflections ("I see," "uh huh") and micro-summaries, and less frequently global summaries. These also involve reflecting on oneself and one's own feelings that arise from sharing the experience of another. NonVerbal and unverbally expressed awareness is critical as most communication is not verbalized, but rather expressed through prosody (tone, pace, intonation, etc.), and facial and body gestures.

What to listen for

Another aspect is *what* to listen for. We all have needs, and in conflict psychological and

neurobiological drives can obscure what people think they need and express as needs. Divorce lawyers know all too well that people can fight intensely over things that others may not think are important. But they are important and knowing why helps lawyers connect with clients and negotiate with the opposing party. Attachment, personality and brain hemisphere theory combine to provide holistic, simple, and robust insights into “hearing” what may be important to a party, because it describes the types of relationship strategies people utilize when they are unsafe, or more specifically, when they are faced with a subjectively perceived danger.

Attachment theory, particularly described by Patricia Crittenden, takes a perspective based on information processing and protection/comfort from danger, and identifies only three basic approaches to relationship strategies which people will express. In childhood, these strategies are simple. In adulthood, they can be complex, however the range of strategies narrows when stress increases, and there is typically only one basic style expressed in the face of danger. One key is to understand that danger is far broader than relationship loss. Danger can be particularly intense when it involves a subjectively and significantly felt interpersonal rejection (Leary, 2006).

Brain hemisphere theory is elucidated by Iain McGilchrist. Often referred to as left-brain right-brain theory, it may be better to think of it as describing “hemispheric specialization” or “Hemispheric Utilization Bias” (HUB). From this approach, each hemisphere has a dominance in how and to what it focuses attention. The right tends towards breadth and flexibility in apprehending the unpredictable and as yet unknown, where the left tends towards a focus and precision required to grasp and use what is familiar and has already been prioritized as of interest (McGilchrist, 2010).

Personality and psychotherapy theory offers a rich body of language describing and categorizing human behavior and client management techniques. Research on the effectiveness of therapy confirms that the professional relationship is the single most important factor, and that clients will not be able to hear us, until we have heard, acknowledged and addressed their needs. The DSM IV’s observable behaviors perspective offers some easy to use lists to describe the more extreme personalities, including those for narcissism and borderline personality. Researchers are now working to connect personality theory with adult attachment theory.

Combining elements from all three theories, and using the language of attachment theory’s ABC model, we can see four basic types of strategies that people utilize when confronted with danger. The first type, attachment Type B, describes a “secure” person who can easily access both sides of their brain for integrated, cooperative and flexible problem solving. These are not people who typically present difficult challenges for lawyers.

The Type A self-protective relationship strategies are dominated by a cognitive, rational, sequence-based, rule-based, left brain approach that tends to focus on things and details in the immediate present, and which is less concerned, or even dismissive and avoidant of emotion and relationship. Narratives are factually thin, oriented around a limited and self-focused sequence of events, meaning is distorted and idealized, and have a focus on what is already known. Conflict is processed rigidly, but ultimately in a fragile way, sensitive to authority. In the broad range of Type A strategies, an entitled and grandiose narcissistic personality constitutes one extreme slice.

The Type C relationship strategies are quite the opposite, dominated by an affective, emotional, relational, context-based, right brain approach that tends to focus broadly across time, space and possibilities, and which tends to be unconcerned with details or authority. Narrative details are absent and loosely connected, significant and irrelevant points are confused, the past

with the present are intertwined, and are rich with context and possibilities. Chaos and ambivalence are elements of their conflict experience, so we see “come close, why are you coming close” or “I love you... I hate you” type behavior. Emotional and jealous borderline personality constitutes one extreme slice of the Type C strategies.

Type AC (or D in some models) have some sort of mix of the other two. Antisocial personality, with a deep desire to be in relationship, yet also a deep fear of being dominated, and gross flaunting of rules and exceptional deceitfulness constitutes a slice of this narrower range of self protective relationship strategies.

Briefly, it is worth mentioning the incredibly significant neurobiological circuits of the Fight-Flight-Freeze and Social Engagement Systems. Both of these systems reflect fundamental human drives and needs, operate on the same never circuit (vagus nerve), and are designed to avoid danger *and* be in relationship. Dr. Stephen Porges (below) describes these systems.

Case study

If we can recognize the one primary strategic orientation of how a person responds subjectively to perceived danger (including rejection in relationship) we can respond with greater effect. Failing to understand the basic orientation, we risk provoking the person into further escalation, risk ourselves becoming frustrated and acting less than optimally, or worse, risk an ethical complaint.

For example, a client* of mine was told by an authority figure that her self-centered and interrupting behavior was unacceptable. The client wanted me to make the authority figure see it her way. Because I didn't initially empathize and understand her needs, or see the Type A strategies and dynamics at work, my initial response was to explain to the client that the best course of action was to do nothing, she should not spend money on legal fees, and we should promptly terminate the consultation. This caused a temper tantrum and the client raged at me in an effort to make me see things her way and do what she wanted me to.

In response, my body experienced an intense internal reaction that drove my fight/flight instincts and in a flash I visualized physically throwing the client out of my office while I told her off. Perhaps because my instinctive reaction was so strong, and because of my practice and experience of being aware of my own body reactions and the personality styles mentioned in this article, I was able to catch and reflect on my reaction. As I did so, I realized that my own feeling was a reflection of the client's feeling –I was being dismissed just as she felt she had been. In a flash, I now understood that she was laboring under Type A self-protective strategies, and I could broadly, and privately, conceptualize her as having a rigid but fragile approach to the problem of her feeling of being controlled by an authority.

I realized that while this client was empathy/relationship-avoidant, she desperately needed to be in relationship, and be heard and validated. So, instead of grabbing *her*, I calmed myself, grabbed a yellow pad and said “wow, it sounds like that (authority figure) is not treating you with *any* respect, and you are extremely frustrated. Tell me more about that.”

For an hour I opened my mind to her experience, I was fully present, and accepting without judgment. I listened and took notes as I worked to find her needs and understand the problem as she did. With innocent and genuine curiosity, I compassionately “suffered with” her, using micro-reflections along the way. After she was able to fully tell her version of the events without interruption, and I was able to repeat them back in a broad summary, she knew I

understood the problem and that she did not stand alone against the experience of domineering authority she suffered from—she was now able to experience a sense of protection from danger. Then, I wrote the best demand letter I could write, which was wholly satisfactory to her—“Exactly what I want!”. Only then could I finally ask the client this question: “what do you think the authority figure will do when he receives this letter?” Because she was safe in the experience of my office, she could finally tolerate an exploration of an alternative approach.

Conclusion

These ideas and resources I am sharing here are the heart of my thesis for my graduate certificate program in Interpersonal Neurobiology at Portland State University. There is a lot of material here, but I think that anything that grabs your attention should be highly worthwhile in your efforts to learn more about how to listen, and what to listen for.

*To protect client anonymity, this example is combination of several clients

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attachment work and theory is excellent, and provides multiple benefits to family law practitioners, such as recognizing “self-protective strategies” and also advising parents on parenting time schedules and what lies at the heart of parenting. Her website, with her attachment circumplex and several articles, is a great place to start. As with others such as Mary Main, she relies heavily on the Adult Attachment Interview (AAI), a simple question and answer interview to listen to and understand a person’s story. Her 2011 book provides amazing insight and detail into what to listen for, although it is written for the psychological expert and not simple. Adult attachment theory, particularly Patricia Crittenden’s conceptualization, describes how adults develop four basic approaches to conflict, three of which tend to increase conflict and make resolution much more difficult. By understanding a basic “personality-in-conflict” theory (my term), or as Crittenden describes, self-protective relationship strategies, you can much more finely tune how you listen and communicate with parties. Personality disorder theory is similar, but perhaps less accessible and less thorough.

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Psychotherapy Networker, January/February. Online with other mindfulness articles at <http://www.psychotherapynetworker.org/populartopics/mindfulness>. Front references the neuroscience research and articles on mindfulness and the explosion of its use by therapists. He relays his experience in therapy processing the loss of his father and offers a nice summary of the elements and effect of listening. “Again and again, I experienced the moment-to-moment miracle of being both soothed by, and visible to, this unassuming man. Gradually, Dr. Burke's unwavering attunement and empathic attention nourished my own ability to attend to the intensity and nuances of my emotions, and to stay with them long enough to become more patient and sympathetic toward myself.” In my experience this works just as well in the law office. I believe that client-centered legal counseling, Transformative and Narrative mediation theories utilize the same concepts (even if they don't understand why it works).

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conflict resolvers need to know about relational neurobiology. McGilchrist's ideas nicely emphasize the Interpersonal Neurobiology concept of working to help people integrate all the different functions of their brain for optimal cognition, behavior and emotion management.

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