

What to listen for, how to listen, and how to help: An interpersonal neurobiology perspective on legal client counseling

BIBLIOGRAPHY

By Mark Baumann, mark@markbaumann.com

(Formal citations are in APA style.)

Barkai J. L. & Virginia O. Fine V. O. (1983). Empathy Training for Lawyers and Law Students, *Southwestern University Law Review*, 13, 505-528. This article can be found on the internet. “Empathic listening skills are valuable to practicing lawyers in establishing rapport with clients. Rapport is crucial to the professional relationship between a lawyer and his client. It assists in developing cases factually, improves the counseling of clients and increased the efficiency of the lawyer’s business” at 528.

Behary, W. (2008). *Disarming the Narcissist: Surviving & Thriving with the self-absorbed*. New Harbinger Publications, Inc. Interpersonal neurobiology makes it easy to move away from traditional psychological terms. At times they can still be helpful, and this easy to read non-academic book has good descriptions of narcissism, and excellent suggestions for how to “listen” and communicate with this very challenging group of people, such as using “empathic confrontation.” Behary’s communication techniques work well for anyone who demonstrates some level of Type A self-absorption, even if it is only in the moment or in the context of the conflict.

Brown, B. (2012). *Daring Greatly: How the courage to be vulnerable transforms the way we live, love, parent, and lead*. Gotham Books. Brene Brown has done amazing research and work centered around vulnerability, which I would argue is an essential element of listening, empathizing, and allowing others to be (or feel) in control. She has numerous Youtube lectures available. (I am less impressed with her work on empathy, and like most authors, Brene’s take is narrow.)

Crittenden, P. M., & Landini, A., (2011). *Assessing adult attachment: A dynamic-maturational approach to discourse analysis*. New York: W. W. Norton & Company. See also www.patcrittenden.com. For addressing “what to listen for,” Patricia Crittenden’s 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.

Crittenden, P. M. (2006). A Dynamic-Maturational Model of attachment. *Australian & New*

- Zealand Journal Of Family Therapy*, 27(2), 105-115. A nice overview of her attachment based theory. Available at www.patcrittenden.com.
- Decety, J. (2011). Dissecting the Neural Mechanisms Mediating Empathy. *Emotion Review*, 3(1), 92. Excellent research review by a leading empathy researcher of the complex topic of empathy, which is just one piece of the listening puzzle. He points out that empathy can be used for pro or anti-social purposes. Empathy can be learned and managed by doctors (and I suggest lawyers also) for optimal health and professional functioning.
- Dutton, D. G., van Ginkel, C., Starzomski, A., (1995). The Role of Shame and Guilt in the Intergenerational Transmission of Abusiveness. *Violence and Victims*, 10(2), 121-131. If you are not convinced that respect, listening and empathy are important for productive relationships, try this article. Dutton is a prolific writer on domestic violence, including his book *The Abusive Personality*. Shaming and guilt are the antithesis of understanding, attunement and client centered counseling.
- Eddy, W. (2003, republished in 2005). *High conflict personalities: understanding and resolving their costly disputes*. Janis Publications. This is the classic book on understanding and managing high conflict people, and is an excellent place to start for practicing in high conflict work. Also excellent for clients to read. Similar to attachment, hemisphere and client-counseling perspectives described in the Integrative Client Counseling model, Eddy offers a personality based approach to the problems that interfere with client "hearing," and a very comprehensive set of solutions for managing high conflict cases. Like all other theorists, "bonding," or connecting, is described as the essential skill. Eddy is an author, speaker and mediator, and worked as a lawyer and MSW counselor. See also: www.highconflictinstitute.com, for free articles and a list of Bill Eddy's numerous books.
- Fitzgerald, F. T. (1999). Curiosity. *Annals of Internal Medicine* 130, 70-72. Also available online at http://courses.washington.edu/hmed665i/ACP_Curiosity.pdf. Curiosity, "the urge to investigate, to discover * * * converts strangers (the objects of analysis) into people we can empathize with." Curiosity takes time, but increases patient and doctor satisfaction.
- Front, J. (2008) A Quiet Revolution: Therapists Are Learning a New Way to Be with Clients. *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).
- Gerber, J., & Wheeler, L. (2009). On Being Rejected: A Meta-Analysis of Experimental Research on Rejection. *Perspectives on Psychological Science* 4, 468-488. Like the Leary article below, this meta study looks at the robust area of study about rejection. This article interestingly parses the affect of rejection into relationship and control. When rejected, people tend to make efforts to stay in relationship or gain control, which can be positively

with prosocial behavior, or negatively with antisocial behavior, which can be aggressive. Most surprisingly, between relationship and control, this study finds that control is a more important outcome.

- Ginott, H. (1965). *Between parent and child* (revised and updated, 2003). Three Rivers Press. A classic parenting book that is easy to read, has good examples, and is based on respect and listening. An excellent book to recommend to parents. *Between Parent and Teenager* is available free at betweenparentandchild.com.
- Gordon, Thomas. <http://www.gordontraining.com/>. 50 years of listening and respect focused training for conflict resolution, leadership and parenting. Numerous good parenting articles and a leadership blog. (Note: Gordon promotes active listening which differs from Integrative Listening in several respects, such as more focus on manipulation than supporting client autonomy.) See also: Blog post on active listening referencing Carl Rogers, <http://www.gordontraining.com/free-workplace-articles/active-listening/>
- Iacoboni, M. (2009). Imitation, empathy, and mirror neurons. *Annual Reviews of Psychology*, 60, 653-670. Mirror neurons are a very recent discovery, and considered highly significant for listening and communicating. When we see people drink water for example, neurons in our own brains that in the area of the brain that directs motor functions “light up”, priming us to take a drink. It is thought that seeing empathy, and careful listening may prime others to do the same through the mirror neuron system (although this has not been proven as the mechanism for empathy priming). (Note: mirror neurons are a popular topic, but still controversial. While they may not exist or function to support feelings like empathy, the idea behind them is solid: that there are resonance circuits in the brain.)
- Leary, M.R., Twenge, J.M. & Quinlivan, E. (2006). Interpersonal rejection as a determinant of anger and aggression. *Personality and social psychology review*, 10:2, 111-132. One of my favorite articles for providing a practical and accessible approach to understanding rejection, and offers one of the most functional definitions of “relationship” I have seen. It highlights the danger of not listening. You will have a relationship with everyone involved in the conflict, even opposing or hostile parties. Whatever the relationship, when they *subjectively* perceive you significantly rejecting them, there is a greatly increased chance they will act aggressively. This may explain things like domestic violence and domestic violence murders. Any rejection, such as terminating the relationship (amorous or professional), must be done with an eye to avoiding rejection.
- McGilchrist, I. (2009). *The Master and His Emissary: The Divided Brain and the Making of the Western World*. New Haven and London: Yale University Press. For shorter and more accessible article, see his 10,000 word essay *The Divided Brain and the Search for Meaning: Why are we so unhappy?* Yale University Press (Kindle Edition, 2012). Iain McGilchrist re-worked and revived left-right neocortex hemisphere theory. McGilchrist’s theories are very new. While there are currently no academic articles connecting his descriptions of how the two hemispheres approach and understand the world with attachment theory, they are, in my opinion, quite congruent with Crittenden’s adult attachment theory, at least for what 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.
- McGilchrist, I. (2010). Reciprocal organization of the cerebral hemispheres. *Dialogues in*

Clinical Neuroscience, 12(4), 503-15. Accessible and short article summarizing McGilchrist's theories. Introduces concept of Hemispheric Utilization Bias to describe a developed preference for utilizing one side of the brain to view and process the world. Available online at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3181995/>.

McGilchrist, I. The Divided Brain. RSA Video at

<http://www.thersa.org/events/rसानimate/animate/rsa-animate-the-divided-brain>. The Royal Society for the Arts presents TED type lectures. This delightful 12 minute video densely and succinctly summarizes McGilchrist's view on the differences between the left and right hemispheres. This video is complimented with an RSA animation.

Moore, R. J. (2010). Narrative empathy and how dealing with stories helps: Creating a space for empathy in culturally diverse care settings. *Journal of pain and symptom management*, 40(3), 471-476. Written for doctors, replacing the word "doctor" for "lawyer" does not affect the value of this well written article, talking in part about resonating with high context and low context communication. "Narratives are valued across all cultural groups, as one method of promoting mutual understanding." At 472. "Narrative empathy is not just something 'nice' or some laudable aspect of human goodness. The resonance of empathy is energizing and pushes participants beyond more isolated perspectives into story lines that are mutually constructed and mutually beneficial." at 474. "Consideration of the another person's story requires suspension of purpose—trying to get one's way in the conversation—and requires an honest search for the "sense" within the other's narrative, even if on the surface it appears to be nonsense. One does not have to agree with this "sense," but far too often, we cut ourselves off from even trying to understand that there is an internal logic to others with whom we disagree." At 474.

Porges, S.W. (2003). "Social engagement and attachment: a phylogenetic perspective". *Annals of the New York Academy of Sciences*, 1008, 31-47. Overview of the Social Engagement System. Stephen Porges is a neurobiology scientist and developed the "Polyvagal Theory" (PVT) This complex theory is a cornerstone in the field of Interpersonal Neurobiology and explains how the Fight-Flight-Freeze and Social Engagement System works. Humans are wired to be both in relationship and sensitive to danger. PVT and attachment theory are intimately connected. Lawyers/mediators/judges, I suggest, sit at the nexus of relationship and dangers posed by relationship. PVT describes the fight, flight and freeze systems as the three primary neurobiological responses to danger, which pushes energy away from the frontal lobes and social engagement behaviors.

Porges, S. W. (2004). Neuroception: A subconscious system for detecting threat and safety. *Zeroto Three: Bulletin of the National Center for Clinical Infant Programs*, 24(5), 19–24. Also available at <http://www.frzee.com/neuroception.pdf>. Porges also coined the phrase neuroception, which describes the body's unconscious system for detecting threats and safety, which in turn communicates through the human vagus nerve (polyvagal system) to drive the FFF behaviors. Neuroception (similar to interoception) is another way our body "perceives," above and beyond the 5 basic senses. Listening, which involves soothing and being "heard" deeply affects the vagus nerve, neuroception and neurobiological systems. The goal in listening is to resonate with these system circuits.

Porges, S. W. (lecturer) CcareStanford (poster) (2012, July 20). The origins of compassion; A phylogenetic perspective [video at The Science of Compassion: Origins, Measures and Interventions, conference]. Retrieved from

- <http://www.youtube.com/watch?v=MYXa BX2cE8>). This Youtube video is excellent, but dense and moves quickly. Porges explains why compassion is essential to listening and working effectively with clients, from a neurobiological point of view.
- Porges, S. W. (lecturer), Dharma Café (poster) (2013, May 15). Retrieved from <http://www.youtube.com/watch?v=8tz146HQotY>. Stephen Porges the “Polyvagal Theory.” This is one of the most understandable explanations of the Polyvagal Theory by Porges.
- Rheem, K. (2012). Connecting with the shut-down client: helping a combat vet face his vulnerability. *Psychotherapy Networker*, May/June, 34-59. Nice suggestions for how to open up communication and participation when the client is “shut down” doesn’t seem able to listen, be heard, or engage in dialogue.
- Schafer, M., Clark, S., & Jeglic, E. L. (2009). The role of empathy and parenting style in the development of antisocial behaviors. *Crime & Delinquency*, 55(4), 586-599. One of many research articles detailing the negative consequences when parents do not relate to their children with warmth and empathy.
- Siegel, D. J. (2010). *Mindsight: the new science of personal transformation*. Bantam Books. See also Siegel, D. J. (2012). *The developing mind: How relationships and the brain interact to shape who we are*. New York: W.W. Norton; and see Siegel, D. J. (2010). *The mindful therapist: A clinician's guide to mindsight and neural integration*. Norton: New York: New York. Dan Siegel was a founder of the field of Interpersonal Neurobiology. He has written many books and articles, and has many lectures available on Youtube. He talks about many topics, including the fundamental brain-mind-relationship triangle, and the need for people to integrate all of the many aspects of each part of the triangle. He digs into and beautifully elucidates the nuances of how to be in a relationship that fosters optimal human behavior.
- Siegel, D. J. (2012). *Pocket guide to interpersonal neurobiology: An Integrative Handbook of the Mind*. New York: W.W. Norton. “Studies of those with mindful awareness using a broad application of these features [such as CUP of COCOA mentioned above] reveal that it is of benefit to the health of the mind in terms of balanced emotional regulation, flexibility, and approaching rather than withdrawing from challenging events. Being mindful makes you more empathic and improves the health of relationships” at 41.
- Siegel, D. J. & Payne-Bryson, T. (2011) *The whole brain child: 12 revolutionary strategies to nurture your child's developing mind*. Delacorte Press. This is another great parenting book centered on respect, connecting and listening. Very easy for parents to read with very specific strategies and examples. An excellent book to recommend to parents. Siegel published *Brainstorm* in 2014, an excellent book about the teenage brain.
- Turman, P. D. (2007): The Influence of Athlete Sex, Context, and Performance on High School Basketball Coaches' Use of Regret Messages During Competition. *Communication Education*, 56(3), 333-353. This is one of several articles from sport science examining coaching styles. Using “power over”, shame, or guilt language is not an effective coaching strategy.
- Zhang, L. (2006). Your money or your self-esteem: threatened egotism promotes costly entrapment in losing endeavors. *Personality & social psychology bulletin*, 32(7), 881. Nicely confirms why people spend money on litigation which they can’t rationally afford.