

Advanced Mediation Skills

Working with High Emotion and Conflicting Perspectives of Reality

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“It infuriates me to be wrong when I know I am right!”

-Moliere
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Reality

- How We Create It
- How We Remember It
- How We Change It

How We Create Our Reality

- Events don't happen in words, they happen through our senses.
- Our attention is not equally distributed. We notice some things, not others. (*inattentional blindness*)
- We then process our various sensory inputs (*sensory integration*) and interpret our experience of what has just happened.
- We create a story (our reality) that matches our own unique experience.

SIGHT

SOUND

TASTE

SMELL

TOUCH

- Our perception of reality is filtered through our beliefs, ethnicity, race, gender, sexual identity, age, health, experiences, etc.



The brain believes what you tell it most.

What you tell it about you and your
experience, it will create.

It has no choice.

-Jennifer Kresge



How We Reinforce Our Reality

- How we tell the story depends on whom we tell it to.
- The more we tell it to the same person, the more that version of the story becomes our “truth.”
- Our “truth” becomes “fact.” (*naïve realism*)



How We Remember Our Reality

- Memory is a *reconstruction*, not a *reproduction*.
- *Episodic memories / declarative memories* require an element of perception and are continuously undergoing revisions and augmentation.
- We often remember in a self-serving way and selectively remember what is important to *us*.
- Accuracy erodes over time – even memories of traumatic or emotional events have a low accuracy rate. (911, Challenger disaster)

- The quality of our experience and our memory of events occur through a “peak-end” filter.
 - How we felt at the peak of the experience (best or worst)
 - How we felt at the end
- The length of the experience and the total amount of pleasure vs. pain (proportionality) have very little impact on our memory.
- Thinking, Fast and Slow, Daniel Kahneman

Everyone has a photographic
memory. Some people just
don't have film!

-Steven Wright



How We Change Our Reality

- If we believe our story is based on fact, it is difficult for us to discount it or change it. Altering it challenges our integrity.
- Once a thought is firmly established, the feeling of correctness is not easily undone. An idea known to be wrong continues to feel correct. We have an addiction to the “feeling of knowing.”
- “*Sunk cost*” also pertains to our stories – the longer we have believed something, the more loyal we are to that belief.

- We do not like to be in the state of “*real time wrongness*.” We do not like to discount something without something else to believe in. We need to simultaneously replace a story with a new story – instant change.
 - “I was wrong” rather than “I *am* wrong.”
- We tend to prefer certainty to open-mindedness. We feel more secure, less challenged, and safe.



- When there is external opposition to our story - especially when we believe the reality testing to be challenging or threatening - we increase our opposition. The more insulted we are, the more our conviction intensifies.
- We hold on more firmly to voluntarily held beliefs/stories than those which we have been pressured to believe.



Reality and Decision Making

- Our reality will then impact the “four villains of decision-making.”
 - how we frame issues too narrowly
 - our susceptibility to confirmation bias
 - our short term emotions
 - our level of over confidence

The Reality Filter of the Neutral

- **Ignorance Assumption**

- You can change another's position by educating them about the facts and law.

- **Idiocy Assumption**

- They know the facts, they are just too stupid to comprehend them.

- **Evil Assumption**

- They know the facts, they understand the facts, but they choose to turn their backs on the facts.

Sources of Resistance

- Self Justification (unconscious denial)
- Rationalization (conscious denial)
- Inconsequential Decision Making
- Power of Irrevocability

Self-justification

“It is astonishing the lengths to which a person, or a people, will go in order to avoid a truthful mirror.”

- James Baldwin



Self-justification

- In order to justify our own actions, we may create a revisionist story. We believe our story to be true.
- We are lying to ourselves – not consciously lying to others. (unconscious denial)
- Our new truth exists despite all evidence to the contrary.



What To Do

- Self-justifiers need to feel supported, not attacked, in order to let go of their revisionist story.
- Make it easy for them to accept their errors.
- Avoid loss of face.
 - “You are a decent, smart person. You made a mistake. You are still a decent, smart person and the mistake is still a mistake.”



- When innocent people are confronted with different evidence they usually do not get angry – they usually get confused. **Self-justifiers are telling *their* truth.**
- Do not tell people that they are lying.
- Be the “*angel*” of reality not the “*agent*” of reality.

- Explore memory, not judgment.
- But, watch out for “*imagination inflation.*”
Trying to remember something that never happened causes further issues between imagination and reality.



- Do not try to reality test when people are tired.
- Discuss external “objective” information (reports, documents, tests, etc.) not the opposing person’s version of the events if the self-justifier is also blaming the other person. (reactive devaluation)



Rationalization

Rationalization may be defined as self-deception by reasoning.

- K. Horney

Rationalization

- The creation of a response that gets us off the hook.
 - We often initially deny that wrongdoing or mistake of fact occurred. (*conscious denial*)
 - Then we admit wrongdoing occurred, but excuse it or minimize it.
- It feels uncomfortable to be wrong, so people get defensive and make up excuses to protect themselves. “ I was wrong, but.....”

- After we admit wrong doing, we usually want to get rid of problem quickly, saying that it was aberrant behavior or had never happened before. We may blame the other person.
- Rationalizers usually want closure quickly to remove their discomfort.

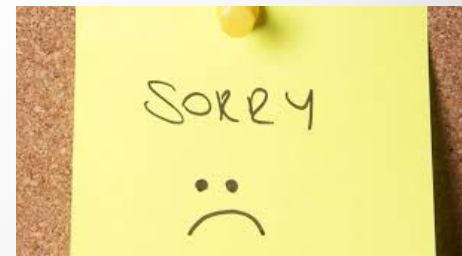


What To Do

- A reason is not necessarily an excuse.
 - Do not discount the reason.
 - Reality test whether that reason “qualifies” as an excuse.
 - Discuss standards of fairness (if appropriate.)
 - For example, they may try to rationalize their behavior by using a different standard of fairness, i.e., equitable or needs based rather than legal.

Be Careful with Apologies

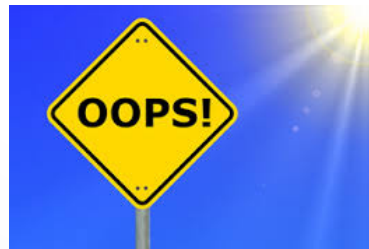
- Watch out for quick apologies by the rationalizer – they may make a “*dispersion apology*” to get the problem taken care of quickly (so they can feel better about themselves and get closure. The person receiving the apology may react very negatively.
- The rationalizer may do a partial apology, “I am so sorry we are in this position,” which can also backfire if the other person believes the rationalizer was fully at fault.



Inconsequential Decision Making

Inconsequential Decision Making

- The minimizing of a problem in order to justify the feelings of ambiguity or concern about making a bad decision.
- “The mistake/issue/problem is so unimportant it shouldn't even be an issue.”



The Theory of Seven



- Not one big mistake
- Seven consecutive small errors
- Usually doing too many “small things” at one time
- Trying to multi-task, talk, listen, analyze, interpret information, improvise

What to Do

- Look at the micro decisions that lead to a macro decision. Do not initially focus on the final decision.
- Look at the micro acts that lead to a macro outcome. Do not initially focus on the final outcome.
- Connect the decisions/acts and show that several small decisions/acts lead to a bigger outcome.

Power of Irrevocability

Power of Irrevocability

- The feeling of commitment and correctness of a decision is stronger after the decision has been made.
- People who have already made a decision are less open to contrary information – they have more investment in the correctness of their decision.
- People may pursue self-destructive courses of action to protect the “wisdom” of their initial decision.



What to Do

- Do not ask for someone's position or opinion after they have made the decision and expect the same response as you would have received before they made the decision.
- Think about resolving issues proactively rather than reactively.

- Know that if you ask for someone to take a stand or give a “bottom line” they usually will become more entrenched than if you use hypothetical offers.
- “Temporary” agreements may be hard to change if someone becomes invested in the decision.



Working With High Emotion



Step One

- **Step One: Assess Your Own Comfort Level**
 - How comfortable are you with the expression of emotions?
 - Are some emotions more acceptable to you (such as sadness or happiness), but others more difficult (anger or frustration)?
 - Why are certain emotions more difficult? Is it because of your background and/or how conflict was handled in your family of origin? How much of your comfort level in mediation is impacted by your comfortable level outside mediation?

- How are you personally impacted when emotions are expressed? Do you feel empathy (understanding of the situation) or sympathy (feeling their pain - which may result in transference)?
- If you are uncomfortable with the expression of certain types of emotions in mediation how does it impact your ability to work effectively as a mediator?

- When emotions are expressed you can:
 - Ignore
 - Manage with guidelines
 - Encourage
 - Actively seek out additional emotions that are not being expressed

Your intervention should be structured according to the needs of the parties in each mediation, your ability to be effective and create a safe environment, and your own comfort level.

Step Two

- **Step Two: Analyze Whether Negotiation is Possible**
 - Have the emotions “hijacked the amygdalae” so that cognitive processing and executive functioning are not possible and therefore good decisions will not occur?
 - If so, is the current timing of the mediation absolutely crucial or can you take a break?

Step Three

- **Step Three – Can the Environment Be Changed to Lower the Emotionality?**
 - Where is the meeting taking place? Is the location causing the emotionality?
 - Who is attending the meeting and is the emotionality due to the presence of that person?
 - How long have the parties been mediating? Has decision fatigue set in? Is someone feeling coerced?
 - What is the subject matter of the mediation? Is that creating the emotionality?
 - What other contributing factors are there?

Step Four

- **Step Four – Strategies in Mediation When There Is High Emotion (Anger)**
 - Are you able to tell what is the cause of the anger?
 - Fear
 - Need for control
 - Righteousness
 - Self Image / Self Esteem
 - Frustration
 - Lack of Communication
 - Misery / Sadness / Unhappiness

- Ask questions to seek answers
 - Do not say, “Why are you so angry?”
 - Do not say, “ I know how you feel.”
 - Do say, “Tell me what specifically is causing you to be angry right now?”
 - Do say, “How are you feeling about this meeting/ this day/this topic?”
 - Do say, “ What needs to change in order for you not to be angry about this?”

- Address the “unstated” issues below the anger.
 - Work with the parties to deal with the real interests below the anger (solution related) rather than just the symptoms of anger itself.
 - For example, if a parent’s anger is due to fear that their son will not have adequate supervision without a one-to-one aide, and could therefore be hurt, address the safety issue.

- Help the party analyze whether the expression of anger is simply the need to “vent” or will it help them accomplish specific goals.
- Discuss the purpose of the anger and the desired outcome with the angry party, e.g. “What do you wish the other person to hear?” “What impact do you hope it will create?” “What is the goal of expressing your anger?”

- Help the party choose his or her own “battles.”
 - If anger is constant throughout the process, the anger may lose credibility.
 - Will the expression of anger show their assertiveness on a particular issue or is there a different way to express (what they want) that would be more effective?

- Validate the emotion and feeling. “I can hear by the intensity of your voice that you feel strongly about this issue.”
 - Let the party know you understand how strongly they feel about an issue - without agreeing with them about the correctness of their position.

- Allow the party to vent to the mediator in private session. One strategy is to have the mediator pretend to be the person in the other room so that the party can vent without impacting the other person or potentially damaging the process.

Make sure there is sufficient time for the venting person to regain his or her ability to think cognitively after they have finished venting. I would suggest a minimum of 20 minutes.

- In private session, allow the party to “practice” how to show their anger more productively in general session, so that the expression of anger is not destructive to the process, but can still be expressed.
 - The mediator can coach a party or reframe the anger into language that can be more effective and less toxic.

- Create boundaries around what is an acceptable expression of anger by either party and set specific limits if necessary.
 - “Do you feel comfortable having this discussion for about 15 minutes?”
 - “I would like each of you to signal to me if you are ever uncomfortable with the other person’s level of expression and intensity.”
 - “There will be no raising of voices during mediation.”

(Notice the increased level of control/direct language by the mediator.)

- Stop anger if it is not constructive and has become destructive.
 - “What you are saying is obviously very important and I really want to fully understand your thoughts. It is difficult for me to truly listen to you because of the (loudness of your voice, aggressive tone, angry accusations). Take a breath and then share the information again (in a calmer way). What is important to you is important to me.

Sources and Recommended Readings(Reality)

- Mistakes Were Made, But Not By Me, Carol Tavris and Elliott Aronson
- Being Wrong – Adventures in the Margin of Error, Kathryn Schultz
- Thinking Fast and Slow, Daniel Kahneman
- Decisive, Chip and Dan Heath

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Sources cont.

- Why We Make Mistakes – How We Look Without Seeing, Forget Things in Seconds, and Are All Pretty Sure We Are Way Above Average, Joseph T. Hallihan
- On Being Certain – Believing You Are Right Even When You Are Not, Robert A Burton
- Difficult Conversations, How To Discuss What Really Matters Most, Stone, Patton and Heen

Sources and Recommended Readings (Emotions)

- The Gentle Art of Verbal Self Defense, Suzette Elgin
- The Anger Habit Workbook, Carol Semmelroth
- The Dance of Anger, Harriet Lerner