

Scientific Data Supporting Applicability of Powerful Non-Defensive Communication™ Courses

With Sharon Strand Ellison

Background information relevant to the applicability of this course for Attorneys, Collaborative Law Attorneys, Attorney Mediators, and other ADR Professionals:

The following quotations from an article by Dr. Brent Atkinson provide foundational information in the interest of clarifying the impact of the non-defensive communication paradigm I have developed and its value for ADR professionals, attorneys, mental health professionals and others in management.

As science is demonstrating, when any person gets defensive, the impact is physiological as well as cognitive/emotional.

“Joseph LeDoux, a neuroscientist at the Center for Neural Science at New York University, discovered a pathway that acts as a supersonic express route to the brain’s emotional centers. This neural back alley, which appears to be reserved for emotional emergencies, bypasses the neocortex entirely, routing information from the thalamus directly to the amygdala, a tiny, almond-shaped structure in the limbic system that has recently been identified as the brain’s emotional alarm center. . . which in turn [can] trigger a cascade of physiological responses—from a speeded-up heart rate to jacked-up blood pressure to mobilized muscles to the release of the ‘fight or flight’ hormones, adrenaline and noradrenaline.¹

Studies further indicate that once the physiological changes associated with defensive reactions take over, it can take at least 20 minutes to an hour to dissipate, and that is only if no one else in the room reacts defensively in response. In addition, trying to talk someone out of being defensive as a means to calming the person down is not effective. The person might act more civil, but the internal process will still be resistant to reason.

Using a “field work” approach, for over 30 years, Sharon Ellison has been dedicated to observing, understanding, and delineating the dynamics of defensiveness and the impact it has on human interaction. Her study has been particularly focused how our use of language can either prompt or diffuse defensive response, which impacts the success attorneys can have in litigations, arbitrations, mediations, collaborative law practice, or any kind of negotiation. While Sharon is currently working to test the results of her theory and practice in more traditional studies and/or clinical environments, she has already accrued overwhelmingly affirming responses through narrative reports of

¹ Networker, July/August 1999, "The Emotional Imperative Psychotherapists Cannot Afford to Ignore, by Brent Atkinson, Ph.D., p. 26 Director of the Family Therapy Program at Northern Illinois University

remarkable results from attorneys who have used her methodology, even in volatile, adversarial situations. —See Attorney Comments in Separate File

Because the vast majority of all legal cases are currently settled out of court, knowing how to defuse defensiveness can be an invaluable tool for attorneys doing any kind of negotiation. The PNDC skills taught in this course include:

1. Altering intention, voice tone, and body language as a means to prompt others to shift from defensive, hostile positions to having an increased commitment to the negotiation process.
2. Becoming versed with a variety of formats for asking questions that can have specific functions, such as effectively holding others more accountable and quickly uncovering underlying issues that may be blocking a settlement.
3. Giving feedback that provides important data and information to other parties using a process of simple steps that makes it much more likely that they will listen instead of reacting in an adversarial mode.
4. Making position statements that have power and clarity in comparing and contrasting the strengths and weaknesses of various options in a negotiation rather than simply “countering” other parties’ positions.
5. Learning how to outline clear boundaries without posturing and making threats when dealing with issues such as creating guidelines for effective process and clarifying clients’ expectations and limits in negotiations.

The skills learned are not structured “techniques” but a very real, multi-faceted, hands-on way of working that can break down resistance and get to workable solutions. The skills also have applicability in various situations within the context of litigation.