“Early Bird” Session

MIND OVER MATTER

MINDFULNESS, COMMUNICATION, AND THE WORKPLACE

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For many people, mindfulness practices can impact our levels of stress and anxiety and lead to better self-care, resiliency and a sense of well-being. Learning how to pause and notice can also impact our communication skills which we need every day in all of our workplaces.

1. **The Numbers**
   - Depression, anxiety, stress, problem drinking are problems in many professions
   - Example: Attorneys experience problematic drinking that is hazardous, harmful, or otherwise generally consistent with alcohol use disorders at a rate much higher than other populations. These levels of problematic drinking have a strong association with both personal and professional characteristics, most notably sex, age, years in practice, position within firm, and work environment. Depression, anxiety, and stress are also significant problems for this population and most notably associated with the same personal and professional characteristics.

*The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys* (Krill, Patrick R. JD, LLM; Johnson, Ryan MA; Albert, Linda MSSW)

2. **Stress and Anxiety**
   - Immense pressures and stresses in many occupations
     - Pressure to keep up with the latest technology
     - Constant distractions
       - Email
       - News
       - Texts
     - Balancing family obligations with work
- The demands to stay “tuned in,” to be focused on work, respond to issues more rapidly and manage a growing number of complex matters

  - Stress and Anxiety

    - Stress is a reaction to conditioned experience
      - Reaction that disturbs our physical or mental equilibrium
    - Loss of appetite, or overeating
    - Use of alcohol/ drugs to self-soothe
    - Headaches, stomach aches, other physical symptoms
    - Increased blood pressure
    - Burnout
    - Vicarious Trauma
    - Compassion Fatigue

  3. **Fight or Flight response to a telephone conversation with a difficult person**

    - Imagine yourself sitting at the office. The phone rings. On the caller ID, you see it is someone you have great difficulties with. How does it impact your mind? What do you notice in the body?

    - The practice of mindfulness — noticing what is happening in the present moment can help to keep you calm in the fight-or-flight response.

    - Understanding the Fight-or-Flight Response:

      To produce the fight-or-flight response, the hypothalamus activates two systems: the sympathetic nervous system and the adrenal-cortical system.

      The sympathetic nervous system uses nerve pathways to initiate reactions in the body, and the adrenal-cortical system uses the bloodstream. The combined effects of these two systems are the fight-or-flight response.

      When the hypothalamus tells the sympathetic nervous system to kick into gear, the overall effect is that the body speeds up, tenses up and becomes generally very alert. If there’s a burglar at the door, you’re going to have to take action – and fast. The sympathetic nervous system sends out impulses to glands and smooth muscles and tells the adrenal medulla to release epinephrine (adrenaline) and norepinephrine (noradrenaline) into the bloodstream. These “stress hormones” cause several changes in the body, including an increase in heart rate and blood pressure.

  4. **Mindfulness: Why is this conversation triggering stress and anxiety reaction?**

    - Letting go of unproductive, unhelpful thoughts.
    - Noticing the voice(s) in your head – are they helpful?
    - Get off the phone, then replay what she said to you over and over again in your mind.
    - Ever have someone important criticize you or fumble over the answer to a question and replay that in your mind like a broken record?
After an opponent, manager, client or customer makes a “snarky” comment, you come up with the perfect clever comeback, and then proceed to beat yourself up for not thinking of it on the spot. These types of thoughts are what are referred to as “unproductive, unhelpful thoughts.” Mindfulness allows you to identify these thoughts then choose your response.

Calm the anxious mind – Ever wish you can just press the “power off” button for your mind and get your brain to shut down? Do you suffer from regular insomnia because you’re stuck in looping thought patterns?

Mindfulness practice allows you to recognize that your mind’s job is to constantly produce thoughts and not to get so caught up in your thoughts. You can learn to observe your thoughts like looking at clouds in the sky. Thoughts will come and go. You learn to watch your thoughts without getting emotionally triggered. Instead of constantly having your mind racing at 150 mph, worrying about an event that’s 6-months away, you can slow it down so that you can gain clarity and focus. It’s the “off button” for your brain for shutting off unproductive, unhelpful thoughts.

5. Mindfulness Can Reduce Stress and Anxiety Responses

Mindfulness as a place to retreat.

We all have days where it feels as though the ground beneath us is about to give and we’re spiraling out of control. When you feel this way, what coping mechanism do you use to feel grounded again? Practicing mindfulness allows us to pause, reflect, and respond from a place of calm rather than reacting.

Most of us have had a situation where we immediately regret hitting the send button on an email or saying something we shouldn’t have said. What we are training our brain to do is to reduce the activities in the part of the brain responsible for fight or flight response and activate the parts of our brain responsible for executive functioning so that we can respond appropriately in difficult situations.

Being mindful is all about being present to each moment of your day.

It helps you to focus on what is truly important rather than ruminating.

6. Mindful Communication: Applicable to All Communications

The Perils of Failing to Communicate and Why We Avoid Certain Communications.

- Fear of the other person’s reactions (anger, hostility, blame, etc.) or our own emotions (fear, shame, feeling of inadequacy, etc.) may cause you to avoid these difficult conversations.
- Personality conflict, incivility baggage from prior interactions, failure to understand each other (or our client’s, customer’s, manager’s perspective). These interactions with opposing counsel may lead to negative emotions such as anger, hostility, or fear.
- Hostile situation – presents a challenge to your goals, it can be very difficult to interact with others.
  - How can we become more skilled at having difficult conversations so that she can meet her ethical obligations?
    - Maintaining composure during difficult situations. Emotional control.
    - Understand what happens when you are faced with a difficult conversation.
    - For example, suppose you lose an important argument and now you have to deliver this bad news to someone else.
    - What is your physical and emotional reaction when you have to pick up the phone and call a colleague, client, friend, etc. to deliver this bad news? Perhaps you fear being in conflict, or the other person’s reaction (you may be blamed, maybe you fear some form of threat, etc.).
    - Conflict wreaks havoc on our brains. We are groomed by evolution to protect ourselves whenever we sense a threat. In these difficult conversations/ situations, the amygdala becomes activated. The amygdala, the brain’s “smoke detector.” It’s responsible for detecting fear and preparing our body for an emergency response.
    - Despite not being in physical danger (getting ready for a call with a client, walking into a contentious deposition, arguing a hearing), the body reacts as though it is being threatened.
    - When we perceive a threat, the amygdala sounds an alarm, releasing a cascade of chemicals in the body. Stress hormones like adrenaline and cortisol flood our system, immediately preparing us for fight or flight. When this deeply instinctive function takes over, Daniel Goleman coined the term in Emotional Intelligence an “amygdala hijack.”
    - The flood of stress hormones create other sensations like a quivering in our solar plexus, limbs, or our voice. We may notice heat flush our face, our throat constrict, or the back of our neck tighten and jaw set. We are in the grip of a highly efficient, but prehistoric set of physiological responses. These sensations are not exactly pleasant – they’re not meant for relaxation. They’re designed to move us to action.
    - Ours ability to think logically is diminished when she is having a stress-reaction. The active amygdala also immediately shuts down the neural pathway to our prefrontal cortex so we can become disoriented in a heated conversation. Complex decision-making disappears, as does our access to multiple perspectives. As our attention narrows, we find ourselves trapped in the one perspective that makes us feel the safest: “I’m right and you’re wrong,” even though we ordinarily see more perspectives.
Understanding this reaction is critical – not being able to access the prefrontal cortex (responsible for higher levels of cognitive functioning) is detrimental to meeting our obligations as professionals.

Research also indicates that strong emotions (such as anger) – the “amygdala hijack” leads to an untrustworthy memory. Again, problematic for lawyers. Memory of the conversation you have with client, opposing counsel, or courts is impacted if you’re in an elevated emotional state.

When our memory is compromised like this, we can’t recall something from the past that might help us calm down. In fact, we can’t remember much of anything. Instead, we’re simply filled with the flashing red light of the amygdala indicating “Danger, react. Danger, protect. Danger, attack.”

How to calm the anxious mind before communicating with a client, opposing counsel, or the court.

- Recognize the physiological reaction. This is normal.
- Gain clarity around your own reaction and emotions. Simply acknowledging the difficult emotion, for example, noticing how angry you feel after losing and the fear you feel surrounding the conversation you have to have.
- Recognize the overloaded nervous system and a body racing with a fight or flight impulse.
- Find calm before engaging in challenging or difficult conversation.
- It is okay to say, “I need a moment to compose my thoughts,” and take a breather.
- Create spaciousness around the experience.
- Stay present to what is happening in the moment.
- Reframe: To minimize negative emotions, try to think of the discussion as a non-charged conversation. For example, instead of a discussion being who is “right” or “wrong,” think of it as a constructive conversation about getting a better understanding of each other’s perspective.

Cultivating Empathy

- Work is challenging! The work that we do can be often emotionally draining.
- Don’t take it personally!
- Create space for the other person’s negative emotional reaction.

Tools for Successful Communication
Before going into the conversation, ask yourself some questions:

- What is your purpose for having the conversation? (See ethical rules and obligations above)
- What do you hope to accomplish?
- What would be an ideal outcome? Watch for hidden purposes.

Notice the impact of your emotions. For example, are you being excessively critical or condescending because you’re upset? If possible, work on yourself so that you enter the conversation with a supportive purpose.

What assumptions are you making about this person’s intentions? You may feel intimidated, belittled, ignored, disrespected, or marginalized, but be cautious about assuming that this was the speaker’s intention. Impact does not necessarily equal intent.

What “buttons” of yours are being pushed? Are you more emotional than the situation warrants?

Take a look at your “backstory,” as they say in the movies. For example, you have had a negative interaction with the person previously and you carry this “backstory” or baggage into the new situation.

Reframe That Difficult Conversation to Calm Your Nerves

https://hbr.org/tip/2017/10/reframe-that-difficult-conversation-to-calm-your-nerves

We Have to Talk: A Step-By-Step Checklist for Difficult Conversations

https://www.judyringer.com/resources/articles/we-have-to-talk-a-stepbystep-checklist-for-difficult-conversations.php

How is your attitude toward the conversation influencing your perception of it? If you think this is going to be horribly difficult, it probably will be. If you truly believe that whatever happens, some good will come of it, that will likely be the case. Try to adjust your attitude for maximum effectiveness.

Who is the opposing party? What might he be thinking about this situation? Is he aware of the problem? If so, how do you think he perceives it? What are his needs and fears? What solution do you think he would suggest? Begin to reframe the opponent as partner.

What are your needs and fears? Are there any common concerns? Could there be?

How have you contributed to the problem? How has the other person?
Easing the amygdala hijack

- STOP technique
- Breathing
- Mindfulness practices
- Understanding your own reaction
- Finding space between the stimulus and your reaction
- Self-compassion

Be Mindful of Different Forms of Communication

- Communication extends to verbal and written communication, including email communication.
- We sometimes use email communication to have difficult conversations with client. For example, letting the client know the outcome of an event.
- Be aware of the limitations of email communication! Are you using email communication to avoid negative emotions and reactions? To avoid speaking with the other party?
- It may be wiser to pick up the phone or even request an in-person meeting.
- Pause before hitting send.
- Extending a generous interpretation
- The fight-or-flight reaction: Email apnea: temporary absence or suspension of breathing, or shallow breathing, while writing email.

Your Breathing Patterns Change When You Read Email, Business Insider  
http://www.businessinsider.com/email-apnea-how-email-change-breathing-2012-12

- Research by Dr. Margaret Chesney and Dr. David Anderson at National Institute of Health (NIH) demonstrated that holding one’s breath contributes to stress-related diseases and disturbs the body’s balance of oxygen, carbon dioxide, and nitric oxide, which help keep the immune system strong, fight infection, and mediate inflammation. It can affect our well-being and our ability to work effectively. Shallow breathing can also trigger a sympathetic nervous system “fight or flight” response. If we stay in this state of emergency breathing and hyperarousal for extended periods of time, it can not only impact sleep, memory, and learning, but also exacerbate anxiety and depression.
○ Conversation with a difficult person
  ▪ Dealing with “bad behaviors”
  ▪ Take a breather
  ▪ De-escalating strong emotions
  ▪ Maintaining control over your emotions
  ▪ Different perspective of opponent
    • Shifting away from the “enemy” perspective
    • Understanding opposing side’s needs and motivation

○ Preparing for a difficult conversation
  ▪ Start with the self-first. (See amygdala hijack above)
  ▪ Understanding the other person’s emotions
  ▪ What is likely emotional state when you’re meeting with him or her?

○ Allowing room for emotions
  ▪ For example, the other person has a very negative reaction to the content of the message.
  ▪ You cannot avoid or fix other people’s emotions.

○ Begin by listening
  ▪ People are better able to listen when they’ve been heard.
  ▪ Preparation: Writing down the key points.
  ▪ Helps to keep you focused and stay on point

○ Acknowledge your own difficulty for being in this conversation
  ▪ This conversation is difficult for both of us...
  ▪ Common humanity. “Just like me...”
  ▪ Repeating key points

○ Often, we communicate a lot of technical details of a case. In this case, Do NOT assume the other person has heard you the first time. Especially when you are delivering bad news. The other person may also experience amygdala hijack!
  ▪ Don’t assume she heard you the first time.
- Okay to pause.
- Take time out
- Offer to continue the conversation later
  - Conversation feedback loop
    - Rephrase and repeat to avoid email apnea
    - What I hear you say is...” “When I hear you say that...”
    - Ask to rephrase what you said. “I know there are a lot of details and technical terms in what I just explained. I want to make sure you understood. Can you tell me your understanding of it?”
    - Acknowledging what makes this conversation difficult
      - If relationship is adversarial, it’s easy to bring in personal feelings and biases
        - Maintain civility — don’t allow the other person’s behavior to dictate yours
        - Beginner’s mind

7. **Burnout**
   - Occupational burnout is thought to result from long-term, unresolvable job stress.
   - Set of symptoms that includes exhaustion resulting from work’s excessive demands as well as physical symptoms such as headaches and sleeplessness, “quickness to anger,” and closed thinking.
   - Burned out professionals “look, act, and seem depressed”.
   - Evidence suggests that the etiology of burnout is multifactorial, with dispositional factors playing an important, long-overlooked role. Cognitive dispositional factors implicated in depression have also been found to be implicated in burnout. One cause of burnout includes stressors that a person is unable to cope with fully. For example, not having control over an outcome of a matter, how someone else will perceive the matter, what someone else will say.
   - Occupational burnout often develops slowly and may not be recognized until it has become severe. When one’s expectations about a job and its reality differ, burnout can begin.

8. **Self-Care**
   - Key to decreasing stress/anxiety, avoiding lawyer burnout.
Relaxation exercises are one of the most effective techniques for reducing tension and the physical effects of stress. In studies conducted at Harvard Medical School, researchers monitored subjects who achieved a relaxed state through meditation and noted that relaxation stimulates biochemical responses in the body which are nearly the opposite of stress, the fight-or-flight response. Relaxation gives the body an opportunity to rest and rebuild its resources. Relaxation is particularly helpful in managing stress when practiced regularly. Methods of relaxation are as individual as what constitutes stress. The key is to find and participate in those activities which create a feeling of relaxation.

This can be as simple as deep breathing exercises for a few minutes or as involved as regular programs of exercise, meditation or biofeedback.

9. Basics/ Foundational Practices as Other forms of Self-Care and Care for Others
   - Sleep, breaks, connecting with allies, yoga, healthy meals, exercise, letting go and laughter
   - Work-Engagement
   - Challenge (v. stress)
   - Working with and on resilience
   - Leadership development
   - Conflict managements
   - Recovery periods
   - Looking for meaning and purpose
   - Learning how to meaningfully engage in difficult circumstances without withdrawing or fighting
   - Effective communication training
   - Turning toward discomfort
   - Insight dialogue

10. Mindfulness may help reduce implicit bias
     -- Implicit attitudes are based on automatic associations
     -- May color how we evaluate and treat others
     -- Rage and implicit association tests (IATs)
See also, “How Mindfulness Can Defeat Racial Bias” May 14, 2015, by Rhonda Magee

Effective communication training

11. Additional Resources


- Meditation: In Depth discusses what is known scientifically about meditation and has a list of key references. Published by the National Center for Complementary and Integrative Health through the U.S. Department of Health and Human Services, National Institutes of Health. (April 2016) https://nccih.nih.gov/health/meditation/overview.htm


Mind Over Matter: Mindfulness, Communication, and the Workplace

Presenters
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Mindfulness in the Workplace

An Introduction
Short History of Employment Law

- Why It’s Never Been Worse

Special Nature of Employment Disputes

- The email
Adversarial

Blame Game

Be a Fortune Teller
Worry Wart

Tech Effects
Mindfulness Defined

- **Mindfulness is:**
  - The art of observing your physical, emotional, and mental experiences with deliberate, open, and curious attention

- **Mindfulness does:**
  - The practice strengthens the ability to exhibit non-judgmental awareness, leading to better decision making, stronger empathy, deeper relationships, and improved focus and concentration
Practice of Responsiveness

- Mindfulness allows you to be aware of and equally present with pleasure and pain.
- Mindfulness allows us to change our response to the dysregulating forces surrounding us.

- Awareness and Investigation
- Non-reactivity and Choice

When and Where is Mindfulness Useful?

- When and where do we practice mindfulness
  - Sitting down
  - Walking
  - Eating
  - Working
  - Driving
  - Anywhere!
Why Mindfulness?

- Key Benefits
  - Improved concentration/attention
  - Improved working relationships
  - Ability to handle stress more effectively
  - See our own minds more clearly, noticing mental patterns and reflexive thinking
  - It is a process that changes us as we change our relationship to our own suffering, stress/anxiety

Stress Reduction

- What is Stress?
  - A reaction to conditioned experience
  - Executive functions of brain are hijacked by primitive part of brain (fight, flight, freeze)
  - Not seeing clearly – glitter ball mind
Anxiety Reduction

- **What is Anxiety?**
  - The subjectively unpleasant feeling of dread over stressful or unfamiliar situations
    - Personal
    - Different experiences
    - Sense of something being wrong
    - Often supported by negative self-talk

The Mind of a Professional

- Need well-functioning executive capacities to make good decisions and evaluate risks, plan, prioritize, cope with new situations
Physiological Effects of Chronic Stress

- Danger
- Body reacts
- Chronic stress increases chances of physical disease
- Anger
- Anxiety

The Mind in Chronic Stress

- Impaired language processing
- Impaired memory
- Reduced creativity
- Limited problem-solving ability
- Impaired concentration
- Reduced ability to learn
- Emotionally reactive
Good News: Science and the Mind

- We can change our brains and the way we respond to our conditions
- Shift in brain activity
  - 90 days to create a new neural pathway
  - Sense of balance that comes from wisdom
  - Ultimately leads to sense of fulfillment

Science and Mindfulness

- A sampling of the science:
  - Based on neuroplasticity and neurogenesis
  - Brain continually evolving in response to our experience
    - New neural connections
    - Strengthen existing connections
    - Create new neurons
  - The mind takes its shape from what it rests upon
Mindfulness Studies

- Many studies but at early stages of research
- MBSR (Developed to treat chronic pain patients)
  - MBCT (For treatment of depression)
  - MBRP (For drug addiction)
- Headspace
- Seven-year study – impact on teenage mental health
- Age related cognitive decline

Mindfulness Studies

- Youth/aging
- Interdisciplinary study examining influence of mindfulness on self-regulation
- American Heart Association recommends mindfulness meditation for lowering heart disease risk
- Studies of biomarkers of inflammation (in our genes) associated with mindfulness meditation interventions
Ogletree Study

- 100 Lawyers
  - 2 groups
  - 6 minutes a day
  - Mindfulness intervention was associated with:
    - A decrease in stress, negative affect, and depression
    - Increase in positive affect, non-reactivity, observing acting with awareness, and non-judging
    - Still higher than the general populations
    - Significant changes in both groups

How Does It Work?

- Thoughts do not disappear while meditating
- Relational quality
  - Doesn’t depend on what is happening, but on how we react to it
  - We observe thoughts, rather than get sucked in by them
  - Teaches us how not to catastrophize
A Three-Minute Mindfulness Meditation

- Follow the breath
- When you breathe in, know you are breathing in.
- When you breathe out, know you are breathing out.
- When your thoughts come, can you just watch them?
Mindfulness and Communication

- What makes a conversation difficult?
- How do we communicate?
- Do we notice what is happening now?
  - What is happening – an interactive exercise
The Breath

- Anchor to the present moment
- Always with you
- Full of information
- How do you breathe?
  - Importance of Diaphragmatic breathing
Final Thoughts

- Stay engaged and committed to the process, NOT the outcome
- Let go of what you cannot control
- Look at difficult communications as an opportunity for learning and growth

We Can Make Space to Choose

*Between stimulus and response there is a space.*

*In that space is our power to choose our response.*

*In our response lies our growth and our freedom.*

Attributed to Victor Frankl – “Man’s Search for Meaning”
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