

Navigating Emotions — De-escalating Intense Emotions

By Robert A. Creo

Previous columns have addressed the lawyer's reputation, self-awareness, perpetual learning, professional growth and the art of persuasion. This column is part of a series on understanding and addressing common emotions arising from dealing with clients, opposing counsel, colleagues, staff and the diverse people involved in any representational undertaking. Two previous columns in *The Pennsylvania Lawyer* are primers on the importance of emotions for lawyers. See, "We Feel, We Choose: Pathos, Decisions and Persuasion" (Jan/Feb 2016) and "Managing Fear and Anxiety" (March/April 2016).

The Navigating Emotions series will dive deeper into the whirlpool of emotions, contending that emotional intelligence is an essential soft skill for lawyer competency, contentment and effective representation. This second installment in the series offers a specific technique for engaging with people experiencing intense emotions, such as anger and frustration.

Psychological Invalidation

When they feel victimized, aggrieved or when they are in an adversarial setting, people feel vulnerable. As a protective mechanism and to avoid being judged, we often ignore or reject the emotionally laden content of others. Scientists have termed this defensive mechanism "emotional or psychological invalidation." Psychological invalidation results in the shutting down of the prefrontal cortex of the brain, thus inhibiting reasoning, rationality and nonimpulsive decision-making. Rejecting, minimizing or invalidating people's feelings is rejecting an aspect of their reality since, for the person experiencing them, even fleeting feelings are factual. Psychological invalidation can apply to both speakers and listeners, including in informational, rather than persuasive, settings. Neuroscience studies have shown that the people asking questions may feel vulnerable and concerned that their lack of confidence in their own knowledge, status or position will be exposed. Meetings, even those between lawyer and client, are subject to mutual psychological invalidation by both participants. Invalidation creates tension and distance in relationships.

Some people are unable to express emotions accurately or with any depth, resulting in default responses when they are confronted with stress or provocation — usually anger, bullying or, in extreme cases, physical actions or violence. This is automatic and unthinking. The technical term for this condition and behavior is alexithymia. Aggressive behavior that escalates conflict is a consequence of alexithymia.

What Is Affect Labeling?

Affect labeling is a tool based on the public recognition of the emotion another is feeling or expressing. The technical and scientific definition of "affect" is when the brain systems associated with basic emotions are activated. Feelings are the physical result of this activation of the brain systems.

After studying the emotion valence, primacy and affect labeling research of professors Jennifer Lerner and Matthew Lieberman, I realized that I had adopted and practiced a less-than-artful form of affect labeling for many years. My own understanding and practice tools improved after attending presentations and studying the model created by my colleague Doug Noll, a prominent mediator and educator from California. Noll has successfully introduced his model into high-conflict scenarios, such as prisons, and as an effective tool to address bullying. Let's review the science before returning to the model Noll recommends for use in negotiation and mediation.

The Science

Neuroscientists studying highly emotional interchanges found that affect labeling calms the emotional areas of the brain and reactivates the prefrontal cortex. Professor Lieberman contends:

The notion that putting feelings into words has mental and physical health benefits is hardly new. When individuals experience chronic or acute distress, the act of seeing a therapist, talking with supportive others, or writing in a journal can each have substantial psychological benefits.

Two decades of social and clinical psychological research on expressive writing have



empirically documented that a small number of brief expressive writing sessions, focused on the source of one's distress can produce demonstrable mental and physical health benefits over the course of several months. Although a number of mechanisms have been proposed over the years, none have garnered widespread support.

Putting feelings into words (affect labeling) is a form of unintentional emotion regulation that serves to diminish distress by dampening limbic responses and the physiological correlates that typically parallel limbic activity. Affect labeling is associated with increased activity in the right ventrolateral prefrontal cortex (RVLPFC), diminished amygdala activity, and diminished self-reported distress, similar to the pattern of effects observed during intentional emotion regulation. It is proposed that intentional and unintentional emotion regulation both rely on a more general inhibitory control mechanism associated with RVLPFC. Common patterns of brain activation are associated with the performance of intentional and unintentional emotion regulation, as well as two other inhibitory control tasks from other domains (motor, social cognitive).

The basic principal is that expressly identifying emotions either orally or in writing triggers changes in brain processing and patterns and the process of emotional regulation. It counters psychological invalidation and restores cognitive abilities based upon reasoning and critical thinking.

Affect Labeling Method

With the lawyer as listener and the client or opponent as speaker, the first step is to ask the speaker to express his or her true sentiments and feelings without holding anything back. The insight and innovative aspect of this model is that the listener is to ignore the speaker's words for at least 90 seconds and concentrate on the tone and voice rather than the content. The theory is that when you ignore the words, you open up your capacity to pay attention to the emotional content and experience of the speaker. As you listen for and guess at those emotions, you become so focused on the speaker that your own ego dissolves. It's automatic, so you don't have to do anything except focus on the other person's emotional experience. Psychological invalidation is neutralized. A basic approach for the listener to implement affect labeling is to:

1. Verify;
2. Clarify; and
3. Reflect the feelings.

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Verification is usually a short, declarative statement such as "You are angry," "You are frustrated" or "You are afraid." It is not framed as question.

To clarify or reflect the feelings, the listener repeats back the speaker's statement and substitutes "you" for the "I" word used by the speaker: "You are feeling betrayal by Mr. X."; "You are responding to how he violated trust." Use direct "You" statements. Do not ask what the speaker is feeling. ("Are you angry?"). Do not use "I" statements. ("What I hear you saying is that you are angry.")

In Noll's experience, after about 30 to 45 seconds of this emotional reflecting, you will see the speaker engage in an unconscious, biophysical response. The speaker may give you a head nod with a verbal response such as "Yeah, yeah." The speaker's shoulders will drop with a sigh of relief. When these occur, you are finished. Stop reflecting. Stop talking and pause. Silence is golden. Give the speaker time to reflect and to process any venting. The speaker has to be ready for the next steps. What's next could be to discuss rational ways to proceed. Take your cues from the speaker.

This tool is designed to de-escalate people who are experiencing intense emotional states. In the context of representing clients, these almost always involve negative emotions, especially anger, frustra-

tion, fear and grief. Successful lawyers understand how to embrace rather than suppress or ignore these feelings that people live with on a daily basis. Whether we like it or not, decision-makers are human beings and drama is part of the turf of practicing law. The more emotional intelligence we lawyers process, the easier it is for us to navigate intense emotional situations to best advise and guide clients. ☞



Pittsburgh attorney Robert A. Creo has practiced as an in-house corporate lawyer and a solo and small firm general practitioner before focusing on being a neutral. He has mediated and arbitrated thousands of cases, including as a salary arbitrator for Major League Baseball, a grievance arbitrator for the

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TAKEAWAYS

- Identify the emotional experience of the speaker.
- Ignore the words for 90 seconds.
- Reflect back the prime emotion to the speaker.
- Validate that the emotions exist and are legitimate for the speaker.
- Stop reflecting when the speaker nods.

References and Additional Sources

Jennifer S. Lerner, Ye Li, Piercarlo Valdesolo, Karim Kassam, "Emotion and Decision Making," 66 *Annual Rev. Psychol.* 799 (2015).

Douglas E. Noll, De-Escalate, *How to Calm an Angry Person in 90 Seconds* (Atria, 2017).

M.D. Lieberman, N.I. Eisenberger, M.J. Crockett, S.M. Tom, J.H. Pfeifer, B.M. Way, "Putting feelings into words: affect labeling disrupts amygdala activity in response to affective stimuli," 18 *Psychol. Sci.* No. 5, 421, (May, 2007).

Douglas E. Noll, <https://www.youtube.com/watch?v=KKXs22MWIow>