



This is Your Brain in Mediation

Based on a PCM Conference workshop presented by David M. Frees, III, Lawyer, Author, Speaker (Communication and Persuasion Skills), and Stephen P. Lagoy, Lawyer, Mediator and Neutral

Mediation is the process of using an external stimulus (the mediator) to focus behaviors in a real-time setting on a review and reframing past behaviors, with the goal of changing future behaviors. We all like to believe that we are in complete control of our own behavior, but that it's the other person's behavior that is causing the problem. This is where advances in neuroscience can help us understand that what we think is not always accurate.

Neuroscience has come a long way in explaining where behavior comes from and why the behavior we exhibit may not all be entirely within our control. Knowing this as a mediator, along with understanding that all communication is manipulation, can give you some tools to help the parties shape their behaviors to enhance the opportunities for responding to each person's real needs.

Behavior is primarily shaped by influences beyond our control – natural selection, genetic makeup, environmental triggers, hormones and neurobiology. Many hormones released by external stresses prompt predictable responses in the more primitive, impulsive regions of our brain (the amygdala) that play out in our behaviors. Oxytocin is produced mainly in the hypothalamus, which receives impulses from the amygdala. Researchers have discovered that

high levels of oxytocin produce apparently contradictory responses. Breastfeeding women with high levels of oxytocin are calmer than bottle-feeding mothers. But more recent research has shown that high levels of oxytocin levels can also be present under stressful conditions, such as social isolation and unhappy relationships.

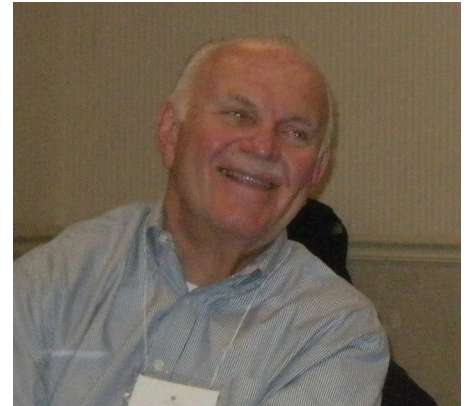
A major question in the field, therefore, is whether oxytocin operates differently when it is released in response to socially connective experiences than when it is released under stressful conditions. Experiments have shown that externally administered oxytocin triggers behaviors of trust and generosity. But before you rush out to buy a bottle of oxytocin to have on hand at your next mediation, know that it is not as simple as that according to one researcher: "Oxytocin is developing a reputation of being the sort of thing you'd want to dump in someone's coffee in the morning to make them soft and nice and fuzzy and good to you, That's just not the case. Oxytocin is much more complex than that."¹ Certain foods have been identified as raising the levels of oxytocin, so it wouldn't hurt to have some bananas and a bowl of nuts on the mediation table.

Other hormones are at work in the mediation setting. Glucocorticoids act under stress to inhibit the critical thinking abilities of the frontal cortex and stimulate the instinctual amygdala. A barrage of hormones acts to stimulate or inhibit various parts of our brain in any situation – stressful

1 "Can oxytocin promote trust and generosity?" by T. DeAngelis in *Monitor on Psychology*, Feb. 2008, Vol. 39, no. 2, p. 32, found at <http://www.apa.org/monitor/feb08/canoxy.aspx>



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or calm – in ways that influence our outward behavior. How we act arises from three simultaneous processes going on in our brains: cognition, feelings and volition. From infancy we are primed to act in ego-centric ways, to get what we want. As we mature we develop more subtle ways of accomplishing this goal, while also recognizing that such action in others can have a negative effect on us. "Moral concepts, in turn, exist, only because of the human capacity to conceive of responsibilities that by their very nature presuppose a transcendence of a narrow moral egocentrism."²

2 "Cognition and Affect: Critical Thinking and Emotional Intelligence" by Linda Elder, from *Inquiry: Critical Thinking Across the Disciplines*, Winter, 1996. Vol. XVI, No. 2, found at <http://www.criticalthinking.org/print-page.cfm?pageID=485>

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So the role of the mediator seems to be to help the participants recognize and deal with these often conflicting stimulants and impulses, how they have affected their actions in the past and how they may want to consciously modify them to deal with the future. In very practical terms this starts with the opening statements or stories that each participant is invited to offer at the beginning of the mediation. Many mediators endorse this step as giving people a chance to vent their emotions before steering them toward a more “rational” assessment of the issues. Brain studies have shown that the retelling process is not a detached event; the person is essentially reliving the experience with all the attendant emotions. While cathartic, it can leave the person less able to engage in productively in the mediation. To avoid this result, Frees and Lagoy suggest saying to the party something like, “It is important for you to tell your story and it is going to make you experience certain feelings; but there are things you are going to hear from the other person that will be important to you.” It may also be helpful to take a break and allow the person to re-group. Also keeping people together at the table helps the mirror neurons react to what each person sees, thereby encouraging development of a sense of empathy.

People come to mediation with a picture or story in their mind. This is their mind’s assumed truth. The mediator can help them verify the validity of that assumption by modeling behavior that seeks verification. The simple technique of asking a party to summarize

what they heard from the other person begins to suggest that what they think they know is not the full picture. David Frees told a great story of dealing with his young son when he announced that there was no way he would be able to master a new skill. Son: “No, I can’t do that!” Father: “I know you feel like you can’t yet; but what would happen if you could?” “Yet” suggests that there are future possibilities and getting someone to imagine that future can spark new openness to test out that future – the very core of what the mediation process is about.

Harnessing Intense Conflict Energy

Based on a workshop presented by Erricka Bridgeford, Director of Training, Community Mediation Maryland

If David Frees and Steve Lagoy caution that intense emotions can interfere with the mediation process, Erricka Bridgeford embraces the energy of conflict and helps mediators recognize their role in harnessing that intensity to help parties shift toward deciding how to change their situation.

“You can’t have conflict resolution without conflict. For some people, conflict plays itself out with more than one person speaking at once. For others, conflict plays itself out with people screaming and yelling at each other. If mediators squash this conflict, then the conflict never comes out and it cannot be resolved. Instead of squashing this conflict, the mediator’s job is to harness the energy which comes out when

more than one person is talking or yelling and to channel this energy towards a productive outcome. The information which comes out in these exchanges is vital. Therefore, the mediator’s job is to listen and help the participants hear what they are saying...[and] make sure all people are heard.”³

People are talking in loud voices, interrupting each other, and maybe throwing in a few curse words. You’re uncomfortable. But are they? “If you are uncomfortable and the participants are not, you may be imposing your values on them by stifling the dialogue.” If the parties are to be empowered, you may first need to let them speak in their own voices. This may mean not introducing conduct guidelines at the beginning: no interrupting, if you think of something you want to say later write it on a pad, etc. At the start of the mediation, the parties are focused on telling their story, not hearing from the mediator. So let them get started and see where they go.

So now you’re feeling really uncomfortable and can tell that the parties are not hearing each other through the shouting and emotions. You want to turn the dialogue to a more productive course. At least that’s what you think they need. “Never get into a shouting match with participants! Even if you are able to shout louder, in the end, the shouting strategy beat out the listening strategy. You are no longer

³ This and other quotes come from the workshop handout, “Harnessing Intense Conflict Energy,” produce by Community Mediation Maryland.)