

**The Mental Edge for Legal Communication**  
AGENDA

DAY ONE

**9:00-10:00 Meeting the Mind**

- Judgments and decisions
  - Primarily outside conscious reach
  - Influenced by more than language
  - Influences on decisions *preempt* language
- Where and how to connect *beyond* just words?
- Live demonstrations – entire group
  - Confirm basic structure of true rapport
  - Confirm responsiveness *beyond* conscious appeals

**10:00-10:50 The Story Model and the Mind**

- What do we know about how legal decisions are made?
  - Who? Each Individual
  - What? OTC (Other than conscious)
  - When? Early, Fast
  - Where? Many references
  - How? Distort, Generalize and Delete (*1 at a time*)
- Sequence: Perceptions, Memory, Reactions and *then* Reasons
  - Thoughts
    - Other than conscious and conscious reactions
      - Always general before specific
  - Memory = Constructing instead of Recording
    - Oration, Declaration or Invitation?
  - Judgment = Other than conscious construction of all stories
    - Life Experiences and Life Stories
- Primacy: = Other than consciously driven
- Bias: = Other than consciously learned and driven
- Old Story Model –v- New Story Model
  - The role of sensory perception in the building a case story
    - Sensory-biases are the most basic path of influence for self, or others
  - Perceptual appeal *more* influential, because more direct
  - RE-authoring the case story – by habit

**10:50-11:10 BREAK**

**11:10-12:00 Moving Beyond “Bad Jurors” (a “bad” Mindset to Hold)**

- No longer helpful, more harm than good comes from it
  - Too many with some “bad” views, answers, *poisoned*
  - Too close to other bad habits i.e. cross examination (job made harder)
  - Prevents too much helpful persuasion long before trial
  - Also, maybe most important:
    - Includes nonverbal messages – can’t hide thinking in our actions (“Get rid of”, “Overcome” = advertised)
- Exercise to establish rapport *confirmed without words*
  - Reflecting attention, reinforcing attention

- Most basic level of connection
- Reading connections in groups (Focus groups, jurors, etc.)
- Practice in: depositions, interviews, negotiation, trial, etc.

**12:00-1:15 LUNCH** (With homework)

**1:15-2:00 Limits of Language – Strengths of Perceptions**

- Putting *observation* on par with interpretation
  - Caboose on the train of thought and action
- Resident habits of perception, conception and expression
- Loosening the hold of language in legal communication
- Fundamental Language Categories
  - Nominalizations
  - Generalizations
  - Modal Operators
  - Judgmental Language
- Language and the roots of themes

**2:00-2:30 Utilizing Decision Maker Bias (starting at the most influential level)**

- Influence: Other-than-Conscious and Sensory Basis
  - 93% ratio of perceptions to words – in every venue
- Visual, Auditory and Kinesthetic sensory bias
- How does influence start?
- Live and taped Demonstrations
  - Exercises – Identifying biases

**2:30-3:00 Establishing and Confirming Complete Communication**

- Perceptual primacy in practice
- Live exercises (“witnesses” and “jurors”)
  - Enhancing memory of your message
  - Gauging impact as you go – *without* words
- 4 Nonverbal Basics
  - Sensory basis of anchors

**3:00-3:20 BREAK**

**3:20-4:00 The Unequal Conscious - Other-than-Conscious Dynamic**

- Memory as construct –v- “recording”
  - 30 second case stories (in the real world)
  - 5 minute openings in focus groups
- Generalization, Distortion and Deletion at work in legal stories
  - Decision-maker filtering of presentations
  - Sensory bias into the mix
    - *Balancing* visual and verbal output for every decision maker
    - New role for demonstrative aids
- Limits of conscious control
- Live Demonstrations
  - Eye movements keying sensory bias
- Habits of thinking, Habits of sensory expression
  - Taking advantage of the natural habits of personal persuasion

**4:00-5:00**

**Congruent Communication and Persuasion**

- Live exercises – Identifying sensory preferences
- Live exercises – opening statement demonstrations and sense bias
- Taped demonstrations

**5:00-5:30**

**Complete Rapport while Introducing the Case Story**

- Taped demonstrations
- Live exercises – “Jurors” and “Witnesses”
- Elements and hierarchy of effective persuasion
- Eye movements, Sensory bias and detecting Veracity
  - Key story elements: Theme, Central Image, Active ingredient
- Homework

## DAY TWO

9:00–9:30

### **Questioning the Story Builders (Focus Groups & Voir dire)**

- Best alternative to “bad jurors” mindset?
  - Focus on full range of case stories instead of who hears
  - Stories – individual – more influential on judgments
- HOW?
- Focus groups aimed at revealing the whole story for each person, not to herd them into two corrals
  - *Much* earlier in process
  - Worthwhile *if* not just aimed at suggestions for jury selection as goal
    - Added value areas with stories –v- types, profiles
    - (4 examples – over a dozen on website, [www.eric-oliver.com](http://www.eric-oliver.com))
      - Negotiation (“Or”, Persuasive for all)
      - Discovery (Need –v- want, Experts)
      - Language, Vocabulary
      - Motions
  - Group Format: Large, early, long

9:30–10:00

### **Focus Groups more like Voir Dire – Voir Dire more like Focus Groups**

(As you listen, please apply to both places)

1. Adversarial, with skilled moderation
    - NOT what already doing – probably not even close
    - Can’t learn without some direction
  2. No declarations of (OTC) positions invited
    - FG can *reveal* Stories – VD can *reveal* Cause strikes
    - No “which side?”, No “strongest evidence for?”
  3. *All* significant Story topics – in context
    - FG: Risk don’t need
    - VD Free of case facts as possible, IN SEQ
      - Law is a part of story (Theme development)
  4. Win/Loss is least helpful outcome – Tie = most
  5. No “why”, “agree”, “do”, “any”, “this case”, “bad juror”
    - Frames: FG: Expand, Difference, Many
    - VD: Job, Many, Able –v- Willing (*esp. Law*)
  6. 2<sup>nd</sup> Follow up Question
    - *Pattern*: “How” –v- “What else”, then switch
    - Other set questions, *responsive* to answers
  7. Expand –v- Reduce
    - Let them talk, many positions more valuable than one
    - Difference first, most – Minority positions, “Same” etc.
    - *Always More Available* – “Never take one answer for the whole story”
  8. First debrief most valuable, deliberations = least
    - Story formation, Primacy, Availability, Attribution...
  9. Verbal, Implied, Nonverbal - give equal attention
    - Decisions and Bias neither consciously driven
    - Must show respect for the direct, implied and unspoken
- OLD –v- NEW FG (New habit instead of old)
  - Prescription for more effective groups – 4 basics

- 10:00-10:40 Eliciting the Full Range of Case Stories: Focus Groups and Voir Dire**  
 - Live exercises: “Voir dire” and “Focus groups”  
 - Combine complete communications skills with questioning
- 10:00-10:50 Decision Makers’ (personal) Case Stories and their Shared Basic Elements**  
 - Elements  
 - Elicitation from participants opening statements  
 - Landmines  
 - Theme  
 - Point of View  
 - Sequence  
 - Scope  
 - Review from Focus Group/Voir Dire exercises
- 10:50-11:00 BREAK**
- 11:00-12:00 Themes, Frames and Anchors**  
 - Accepted frames for legal case stories  
 - Setting Frames and Reframing  
 - Anchors in the process  
 - Taped demonstrations  
 - Setting Anchors (and harvesting existing ones)  
 - Taped demonstrations  
 - Live elicitation of case-specific examples  
 - Cautions in use of anchors  
 - Lunch homework
- 12:00-1:15 LUNCH (with Homework)**
- 1:15-2:30 Opening Demonstrations**  
 - Taped examples  
 - Live exercises  
 - Openings incorporating mirroring and anchors  
 - Utilization as Strategy and Tactic
- 2:30-3:20 Veracity: Detecting and Delivering It**  
 - Why so many behavioral techniques fail  
 - Taped demonstrations  
 - Taped tests
- 3:20-4:30 Veracity Reading Test**  
 - Group demonstration  
 - Group test
- 4:30-5:30 Implementation – Daily**  
 - Four basics at work  
 - Negotiation pattern (respecting nonverbal primacy)  
 - Meaning of Any Communication