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Talking to A Jury: Are You Getting Through?

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Talking to a Jury:
Are YOU Getting Through?

LECTURE BY KIMBERLY OVERTON

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Effective Communication is the key, especially with trial work. The first step in effective communication is delivering information in a way that your audience can understand it. The second step is to ensure that they retain the information. This presentation will first focus on defining and determining various learning styles. Second, it will concentrate on defining the Nine Principles of Accelerated Learning and developing strategies to utilize these principles to effectively communicate with jurors.

OUTLINE OF PRESENTATION:

The Human Brain – The human brain is an intricate organ and is the command central of all you think, feel, and do. Your brain is divided into two halves or hemispheres. Within each half, particular regions control certain functions. The two sides of your brain look very much alike, but there's a huge difference in how they process information. Despite their contrasting styles, the two halves of your brain don't work independently of each other. The brain is constantly reorganizing itself. It's adaptable to change, whether it's physical or through life experiences. It's tailor-made for learning.

Left/Right Brain Theory - The theory is that people are either left-brained or right-brained, meaning that one side of their brain is dominant. If you're mostly analytical and methodical in your thinking, you're said to be left-brained. If you tend to be more creative or artistic, you're thought to be right-brained. This theory is based on the fact that the brain's two hemispheres function differently. This first came to light in the 1960s, thanks to the research of psychobiologist and Nobel Prize winner Roger W. Sperry. The left brain is more verbal, analytical, and orderly than the right brain. It's sometimes called the digital brain. It's better at things like reading, writing, and computations. The right brain is more visual and intuitive. It's sometimes referred to as the analog brain. It has a more creative and less organized way of thinking.

Subsequent research indicates that while the two sides of our brain are different, we may not have a dominant side. Whether you're performing a logical or creative function, you're

receiving input from both sides of your brain. For example, the left brain is credited with language, but the right brain helps you understand context and tone. The left brain handles mathematical equations, but right brain helps out with comparisons and rough estimates.

General personality traits, individual preferences, or learning style don't translate into the notion that you're left-brained or right-brained but understanding how your brain works will help you communicate and persuade more effectively.

I) Brain Quadrants – Ned Hermann developed the Whole Brain Model which is a mental model that describes thinking preferences. These are the ways of thinking that satisfy us the most and seem natural for us to process information. These thinking preferences describe the pattern of what we prefer to pay attention to and what we don't naturally prefer. The brain, for purposes of determining learning styles, is separated into four quadrants: A, B, C and D. The A and B quadrants include individuals who are predominately verbal communicators and learners; the C and D quadrants are predominately non-verbal communicators and learners. It is critical to determine how you think and learn because then you can project how you communicate. Next, you must learn how others learn so you are better able to communicate with them.

A) Quadrant A: Strategic Intelligence

1) Characteristics

(a) Concrete and systematic thinkers, logical, rational and precise

(b) Enjoy putting things together, making things work, and explaining things

2) Learning Styles

(a) Prefer "to the point" information, proof of validity, working alone, lectures, textbook reading, and making lists

(b) Generally dislike being disturbed, listening to tapes, and vague concepts

3) In the Jury Box

(a) Will want to hear rational and logical arguments

(b) Will not be as concerned with the emotional aspects of the case

(c) Precise fact gathers

B) Quadrant B: Logistical Intelligence

1) Characteristics

(a) Linear, organized, consistent, and timely; “rule followers”

(b) Need details, examples, and practical applications

2) Learning Styles

(a) Prefer working in groups; a clear beginning, middle, and end; planning out the details before beginning a project;

(b) Generally dislike ambiguities, risks, and unclear expectations

3) In the Jury Box

(a) Will want to see a neat and timely presentation

(b) As “rule followers” this will expect you and your witnesses to follow proper protocol

(c) Will want a plan and will encourage other jurors to follow the plan

(d) Disciplined and reliable

C) Quadrant C: Diplomatic Intelligence

1) Characteristics

(a) Emotional, expressive, and desire to please others

(b) Good listeners and team players

(c) Make decisions because they want to, rather than because they should

2) Learning Styles

(a) Prefer friendly and emotional experiences; interaction and personal relationships; expressing and sharing feelings; group discussions; and tactile activities

(b) Learn by hearing stories

(c) Generally dislike lecture format; lack of interaction or participation; data, analysis, and lists

3) In the Jury Box

(a) Will be more empathetic

(b) Will be more emotional

(c) They are more about the relationships aspects—will want the jury to work together as a "team."

D) Quadrant D: Tactical Intelligence

1) Characteristics

(a) Leaders, global ("Big Picture") thinkers, aggressive, impulsive, risk takers, spontaneous and fun

(b) Smallest quadrant group in America

2) Learning Styles

(a) Prefer overviews; hands-on experiences; freedom to explore; variety of content; pictures and metaphors

(b) Dislike structure, deadlines, lists, lectures, and details

3) In the Jury Box

(a) Not rule followers; usually want to change the status quo

(b) Will want variety of evidence and presentation styles

(c) Will want to "fix" things they see as "broken"

Identifying the learning styles of different jurors allows you to select a jury that will best receive your case. Identify your case strengths and weaknesses, and then select a jury that is most likely to accept the types of evidence you have available in each case. Also, ensure that you are utilizing methods of case presentation that reach jurors in all learning categories. By presenting evidence in formats to reach all four types of learning styles, you increase the jury's understanding and recollection.

II) Learning Styles – In addition to thinking differently, people also learn more effectively through different modes of presentation. The primary three modes of learning are: visual, auditory and tactile.

A) Visual Learners: These individuals need to see things in order to comprehend and understand concepts. Graphic illustrations, especially those in color, reach this learning style. Presenting material in the form of diagrams, charts, timelines and graphs make complex information easier for this group to grasp. Normally, visual learners like to take notes in order to increase understanding and retention.

B) Auditory Learners: These individuals need to hear things in order to comprehend and understand concepts. A traditional conversation, lecture format or oral report reaches this learning style. Often, these learners develop mnemonics to remember concepts, theories and important details.

C) Tactile Learners: These individuals need to participate in things in order to comprehend and understand concepts. They thrive in learning environments that offer hand-on experiences and involve movement and even role playing. These learners like to practice and physically engage in activities to master concepts.

III) Nine Principles of Accelerated Learning – Speaking the language of all four learning groups is only half the battle. Once we figure out how jurors receive information, we must then get them to retain and recollect what we have told them. As prosecutors, it is imperative that we effectively communicate with all types of learners. The following Nine Principles of Accelerated Learning will assist in effectively communicating our case to the jury. By improving the jurors' understanding and recollection of the facts and evidence, we ensure their ability to confidently return at "Guilty" verdict.

A) Primacy and Recency—Jurors recall what they hear first and last so open and close with attentions grabbers. Present the most important points first and last; bury the more tedious points in the middle. Never miss an opportunity to go first or last.

B) Paint a Picture –An image is worth a 1000 words and people think in pictures. Everyone loves a good story (Especially "C" Learners). As a prosecutor it is imperative that we be good story tellers. People believe, understand, and recall what they visualize.

C) Color—Color gains attention and enhances memory; Always remember that different colors have different meanings

D) Increase Retention by Decreasing Stress—Jurors ability to learn is inhibited by stress. Stress affects jurors' ability to thinking, learn, retain, and recall. Stress may be induced by the situation, our actions, the environment, and even uncertainty.

E) Impact—Everything you do in a courtroom must have impact. Use words with impact, have ideas with impact, and make sure your overall case presentation has impact.

F) Hands On—Studies show that people remember and average of 10% of what they read; 20% of what they hear; 30% of what they see; 50% of what they see and hear; 70% of what they say; and 90% of what they say and do. Allow jurors to interact with the evidence as much as possible.

G) Repetition—Optimal retention requires six repetitions. If you want to encourage effective recollection of the evidence you present, you must repeat important items. We can repeat information in different phases of trial (voir dire, opening, direct, cross, and closing) and by using visual aids and demonstrative evidence.

H) Five to Seven Minute Rule—The majority of our jurors are part of the TV generation. Their minds are conditioned to receive information in 5 to 7 minute increments. You must break your information up into short segments while utilizing the concepts of primacy and recency.