

EMOTIONAL INTELLIGENCE FOR LAWYERS

By Ronda Muir, ESQ.

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“(M)en decide far more problems by hate, or love, or lust, or rage, or sorrow, or joy, or hope, or fear, or illusion, or some other inward emotion, than by reality or authority or any legal standard, or judicial precedent, or statute.”

Cicero

Everyone is familiar with "IQ"—intelligence quotient. Most lawyers put their IQ scores up there with their SAT and LSAT scores as generally acknowledged evidence of their competence. But what is your emotional intelligence quotient? And why should you care?

In spite of lawyers' confidence, some might even say arrogance, as to their intellectual competence, for the most part they have a demonstrated unwillingness or inability to tap into emotional data. In recent years, the field of neuroscience has produced astonishing evidence that is finally putting to rest the long-standing controversy over the role of emotions in the workplace: research has established that rational decision-making is impaired if the area of the brain relating to emotions is damaged or excised. It has now been scientifically demonstrated that the best analyses and decisions are made when we engage the emotions, as well as the intellect. For lawyers, the message is clearly that, in order to upgrade their performance, they should use the additional data available from their own and others' emotions to enhance their cognitive skills.

A SHORT HISTORY

The function of “emotion” has long been a subject of controversy. As noted in the quote above, Cicero of ancient Rome recognized the power of emotions in decision-making years before the birth of Christ. On the other hand the Stoic philosophers of roughly the same era viewed emotion as too individual and self-absorbed to provide reliable insight, even undermining rational thought. By the late 18th and early 19th centuries, the Romantic Movement was promoting the notion that emotions, intuition and empathy could provide valuable insights unavailable through rational thought alone.

Throwing aside America's legacy of Puritan distrust of and suppression of emotion, the human potential movement of the '60s advocated "letting it all hang out," emotions-wise,

and maintained that there was "no right way to feel." Darwin, on the other hand, had taken the position that there may in fact be a "right way to feel" for some purposes, since accurately perceiving and understanding emotions could provide evolutionary advantages. That view seems to be supported by the consistency across cultures that contemporary psychologist Eckman has documented in how people read the emotional content behind different facial expressions, for example.

Still, after centuries of back and forth over the role and importance of emotion, in 1960, a psychologist named Cronbach concluded that what he called "social intelligence," while clearly of some value, was unlikely to ever be defined and had never been measured.

The current notion of *emotional intelligence* (EI) refers to the ability to process emotion-laden information competently and to use it to guide cognitive activities like problem-solving. Emotions, according to this construction, bridge thought, feeling, and action – significantly affecting many aspects of the person, as well as being affected themselves by the person.

The field of emotional intelligence is an outgrowth of two areas of psychological research that merged toward the end of the last century. In the 1980s psychologists began to examine how emotions interact with thought and vice versa. For instance, researchers determined how mood states can influence perception, thought and judgment: a slightly depressed mood can facilitate accurate close, repetitive work, such as clock making; an upbeat mood can facilitate the generation of creative ideas. During this same time, there was a gradual broadening of the concept of intelligence to include an array of abilities. Howard Gardner, for example, advocated for the recognition of multiple intelligences, including interpersonal intelligence, primarily for purposes of teaching children with diverse learning styles.

In 1990 Yale researchers John D. (Jack) Mayer and Peter Salovey published in academic articles the first formal definition and experimental measurement of "emotional intelligence." The startling conclusion of their research was that it was the use of both emotion and cognition combined that resulted in the most sophisticated information processing and decision-making.

Daniel Goleman popularized this concept of emotional intelligence in his 1995 trade book *Emotional Intelligence: Why it Can Matter More than IQ*, and further expanded the concept of emotional intelligence to include a broad array of personality attributes, such as political awareness, self-confidence, conscientiousness and drive. When in 1998 the Harvard Business Review published an article on the topic, it attracted a higher percentage of readers than any other article published in that periodical in the prior 40 years. The CEO of Johnson & Johnson had copies of the article sent out to the 400 top

executives in the company worldwide. In the years since, increasing numbers of both popular and scholarly articles on emotional intelligence have appeared, and the topic has received wide media coverage.

Assessments to measure different components of emotional intelligence have also proliferated. While the most widely used scales of analytic intelligence, the Wechsler Intelligence Scales, have been in use and analyzed for almost 100 years, measurements of EI have only been used for the last five years. Many of these assessments are "self-report" or reported inventories, meaning that the test-taker or those who know the test-taker simply state whether or not he/she possesses particular traits, such as optimism, self-awareness and initiative. For example, on the Bar-On Emotional Quotient Inventory, the test-taker reports whether they have certain attributes pertaining to inter-personal skills, stress management and adaptability. The Emotional Competence Inventory, based on Mr. Goleman's precepts, measures initiative and organizational awareness, among other variables, using composite ratings by all the people in a particular individual's social environment.

The Yale researchers, Mayer and Salovey, confined their model of EI to only those traits they could measure in the process of subjects performing tasks in real time, rather than by simple reporting. In other words, they did not rely on asking participants their opinion of their or others' skills. This model has produced the only "abilities-based" assessment, the Mayer-Salovey-Caruso Emotional Intelligence Test (MSCEIT).

SO WHAT EXACTLY IS EMOTIONAL INTELLIGENCE?

As a general matter, emotional intelligence refers to "the abilities involved in the recognition, use, understanding and management of one's own and others' emotional states to solve problems and regulate behavior," a definition taken from Mayer and Salovey. This model identifies four branches of EI that each reflects a different set of skills.

The first branch is *Identifying Emotions*, and includes the skills of identifying one's own and others' feelings, expressing emotions accurately and differentiating between real and phony emotional expressions. The second branch is *Using Emotions*, which includes the ability to access one's own emotions and to switch emotional gears, using changes in mood to see multiple points of view and to attempt different approaches to problem solving (for instance, using a happy mood to assist in generating new ideas).

The third branch is *Understanding Emotions*, including the ability to understand emotional "chains"-- how emotions transition from one state to another, to recognize the causes of emotions, and to understand relationships among and complexity within emotions. The fourth branch is *Managing Emotions*, which includes the ability to stay

aware of changing emotions, even those that are unpleasant, the ability to confront and solve emotion-laden problems without suppressing emotions, and the ability to manage relationships.

WHAT EMOTIONAL INTELLIGENCE IS NOT

Emotional intelligence does not correlate with IQ. Just because you're smart doesn't mean you're likely to have a high EI. Some professionals, such as lawyers, exhibit high average IQ scores (in the 115-130 range), while at the same time scoring lower than the general population on EI (85-95).

Nor does emotional intelligence correlate with any particular type of personality. Historically, the research that exists on predicting workplace success has examined personality attributes, and those results do not point to any one attribute having a major impact on success. In one significant study of five personality dimensions, "conscientiousness," including competence, order, dutifulness, achievement striving, self-discipline and deliberation, was found to be the best personality factor predicting workplace success, consistently across all occupational groups, but accounted for only 2-3% of the variance.

Similarly, being emotionally intelligent, at least for purposes of improving job performance, does not necessarily mean being "nice." In the study cited above, "agreeableness," a combination of trust, straightforwardness, altruism, compliance, modesty and tender mindedness, was determined not to be an important predictor of job performance, even in those jobs containing a large social component, such as sales or management.

Nor is "liking people" a critical part of emotional intelligence. In the same personality study, being high in extraversion, which included warmth, gregariousness, assertiveness, activity, excitement-seeking and positivism, validly predicted success for people in management and sales (although only to the extent of 1-2%), but not for professionals such as lawyers, accountants and teachers or for skilled or semi-skilled occupations.

WHAT IS EMOTIONAL INTELLIGENCE GOOD FOR?

While not a magic formula, emotional intelligence appears to identify a previously overlooked area of ability that is critical to maximize certain human functioning and that can positively impact work performance. Claims have been made that emotional intelligence accounts for 80% of an individual's workplace success, although there is as yet little hard data to justify that percentage.

Nonetheless, a number of studies have pointed to the importance of emotional intelligence in the workplace. For example, an insurance company rated 26 customer claim leaders and their teams as to their effectiveness. Those ratings turned out to be highly correlated with the level of emotional intelligence of the leaders and with the average team emotional intelligence, both as determined by an EI assessment.

A significant American Management Association study found that the ability to "get along with people" was "more vital than intelligence, decisiveness, knowledge, or job skills" in producing good managers.

In addition, as detailed below, training in emotional intelligence has proven to produce significant bottom-line results.

There is also significant research data that leaders are more productive and effective if they are able to identify, use, understand and manage emotions. Higher manager self-awareness, a critical component of emotional intelligence, leads to higher management performance. Empathic skills assist in understanding multiple viewpoints and motivating others. Both a positive managerial mood and the ability of the manager to enhance positive mood in others has been found to increase employee performance, improve retention and reduce group conflict.

Women score somewhat higher on measures of emotional intelligence than do men, but not significantly so. However, since emotional intelligence is often not recognized as a critical leadership skill, women and others who possess higher emotional intelligence may be unrecognized and undervalued in the workplace.

Perhaps more telling, men consistently score higher on suppression of emotions, which research clearly shows reduces cognitive functioning. The high suppression rates may be due to what we know about gender differences in "felt emotion." Emotional experience as a general matter for men seems to be more physically debilitating—producing a higher pulse, rate of perspiration and blood pressure-- and to last longer over time than the same experience does for women, and men may therefore tend to suppress those feelings more.

WHAT ABOUT LAWYERS?

As noted earlier, lawyers score lower than the general public in EI. There are a number of reasons why that may be true. The legal workplace has historically taken the Stoic/Puritan view that emotions are best eliminated from legal analysis, and thus emotional intelligence is probably at least undervalued if not discouraged. In addition, strong analytic skills may give individual lawyers enough success to convince them that they do not need to develop their EI skills.

However, the impact of low emotional intelligence in the legal arena is evident.

In April 1955 Dean of Harvard Law School Erwin Griswold noted that "Many lawyers never do seem to understand that they are dealing with people and not solely with the impersonal law," a comment that unfortunately continues to ring true today. The reputation of lawyers generally has suffered from the image of lacking interpersonal sensibilities, such as compassion. Further, the high rates of divorce, suicide, addictions and plain dissatisfaction among lawyers is evidence of less than satisfactory emotional balance across the profession.

CAN YOU LEARN IT?

Emotional intelligence is increasingly being incorporated into professional training programs across the country. At the Weatherhead MBA Program at Case Western Reserve University, training in social and emotional competency is part of the curriculum for future business leaders. Communication and emotion-related skills are being included in physician training at a number of medical schools.

The Breakthrough Leadership program adapted a design used successfully in degree programs at The Weatherhead School of Management. The central theme focuses on helping managers identify areas for behavior change, then giving them opportunities to practice new habits real-time. In the degree programs, the results have been extraordinary. Participants have shown a 70% improvement in emotional intelligence competencies one to two years after the program. The changes are sustained at 50% improvement five to seven years later. These dramatic results are in contrast with the typical impact shown by above-average MBA programs of 2% improvement one to two years after a program, and the typical impact of management training showing only 10% improvement three to eighteen months after training in industry.

Perhaps the workplace training program that addresses itself most explicitly to emotions is the Emotional Competency Training Program at American Express Financial Advisors. The goal of the program is to assist managers in becoming "emotional coaches" for their employees. The training focuses on gaining an awareness of how one's own emotional reactions and the emotions of others affect management practices. A much higher growth rate in terms of funds under management was found for the managers who had taken the training.

WHAT ABOUT LAW STUDENTS?

In 1955, Dean Griswold called upon the bar and the legal academy to recognize the need for "human relations training" in law school, noting that the average lawyer spent far more time interacting with *people* than reading and arguing cases. It was Griswold's

opinion that training could help lawyers better understand their own emotional needs and that of their clients.

One of the first law school courses in the nation to apply human relations training to law was taught by Professor Howard Sacks at Northwestern Law School during the 1957 – 58 school year. The course, entitled "Professional Relations," was offered without credit and was taught (in four classes lasting two hours each) over the span of two weeks. Professor Sacks expressed the hope that other law teachers would join in his experiment, both in offering stand-alone courses such as "Professional Relations" and in integrating human relations training into the regular law curriculum.

Of course, the legal profession is rarely accused of implementing change too quickly, and a law review article written by Harvard Law Professor Alan Stone in 1971 noted that, in spite of Dean Griswold's advocacy for human relations training, "law schools . . . have largely ignored the responsibility of teaching interviewing, counseling, negotiating, and other human relations skills."

The last three decades have been witness to a marked increase in the number and variety of law school courses that touch on components of emotional intelligence. Nevertheless, legal academics still take the position that lawyers must learn to be more effective interpersonally. As Vanderbilt University Law Professor Chris Guthrie summarizes it, "Lawyers are analytically oriented, [and] emotionally and interpersonally underdeveloped."

In conclusion, emotions and emotional management clearly effect how people feel and act at work. In the legal workplace, recognizing emotional intelligence skills and providing training to raise generally low emotional intelligence scores could well impact not only the satisfaction and retention of lawyers, but also significantly improve their analytical and decision-making abilities. Further, the ability to identify through abilities-based assessments those partners and associates who are best able to deal with their own and others' emotions should prove useful to improving law firm and law department management.

Ronda Muir, Esq., founder and Principal of Law People Management, Inc., is a leading authority on the application of behavioral science to the legal workplace. She draws from law, psychology and conflict resolution to offer business-savvy, psychologically sophisticated evaluations of, and real-world solutions to, the personal dynamics issues that are unique to law firms and law departments. Reach her at RMuir@LawPeopleManagement.com.