There's Gold in Them There Social Sciences

Those responsible for the training of lawyers can benefit greatly by borrowing from various disciplines of social science. In fact, in this increasingly specialized world, it is the responsibility of trainers to delve into other disciplines and bring back from them information and skills that will assist and enhance the professional development of the lawyers in his or her firm. Cognitive psychology and adult learning theory are gold mines in which to find the best methods to help lawyers learn most efficiently and with the most retention.

The fields of intercultural communication and cultural anthropology teach one how to analyze the culture of the firm in order to best adapt training; it also helps one to analyze the culture of the client's organization to help adapt services and communication. (A good book to read is Communicating with Strangers by W.B. Gudykunst and Y.Y Kim, McGraw-Hill, 1992.)

Theories of intelligence point the way to understanding the kinds of skills a firm seeks in its associates and how to strengthen these skills. (One eye-opening article for both recruiters and trainers is "Three Heads are Better than One" by Robert J. Trotter in Psychology Today, August, 1986.)

The interdisciplinarity attitude and ability of training personnel can significantly improve a firm's professional training program. Using knowledge from various disciplines, he or she can also teach the firm to improve its performance evaluations, understanding of clients, firm management and recruiting. As an example of a foray into one of the social sciences, let us look at a bit of what psychology has to offer.

Psychology is a big field and it covers a multitude of human (and animal) tendencies and behaviors. Among other phenomena, it looks at 1) how we judge or explain each other's behavior; 2) how we interact with each other; and 3) how we influence one another. Obviously, it would be advantageous for a lawyer to improve his knowledge of those three areas of human behavior. Lawyers judge, interact and influence at the very core of their profession. Therefore, psychology has much that would be valuable to teach in a law firm.

Judging another's behavior

Psychology gives us valuable assistance in learning about our tendencies when judging or explaining what another has done. One of these tendencies is revealed to us by the theory of attribution.

The theory of attribution gives a powerful clue as to how we explain the behavior of others — and ourselves.

We all have a need to explain to ourselves why things happen in the world and why people do the things they do. The process we go through to divine these explanations is critical to how we evaluate associates, recruits, staff, peers, clients and opposing counsel. In all these instances, as well as most others, it is important that our explanation be as accurate as possible. The theory of attribution gives a powerful clue as to how we explain the behavior of others — and ourselves.

When someone does something — for example, Associate Timothy spoke little and quietly around the client — we quickly make a judgment as to why the behavior occurs. We generally do not like to leave the event unexplained; we have a strong need to fill in the blank. We may attribute the event to an external cause; in Timothy's case, perhaps he caught the laryngitis going around the firm. Or we may attribute it to an internal cause; Timothy is not very bright and thus had little to say.

External causes include task difficulty (she won the case because it was such an easy one to argue), external rewards (he did a great job typing that brief because he knew salary decisions were being made this month), or luck (he got great evaluations because he was lucky that everyone interviewing him is easy on recruits).

Examples of internal causes are abilities and skills (she is a very good trial lawyer), effort and motivation (he has a can-do approach and works hard to serve the client well), or attitudes (her insensitivity to others is showing in how she treats the support staff).

Of course, a serious potential problem exists when we attribute causes to the behavior of others. In our strong need to fill in the blank, we can reach conclusions based on insufficient information. We can do so without even knowing we are doing so. We may be interacting with Timothy...
every day and be unaware that we think he is not very bright. Or we may be interacting with a client unaware we have deemed her incapable of understanding her own case.

So what can we do? Simply being aware of the lessons of attribution theory will improve our accuracy in explaining why others behave as they do. Just a few tips that can be learned:

- Become aware of when you are assigning a cause to a behavior. This phenomenon can be seductive because it often operates outside consciousness. Make it conscious. Watch when you are assigning an external cause to behavior. Was Jerry really lucky or has he become a seasoned negotiator? Find out what is really happening.

- Observe when you are assigning an internal cause. You think the client's manager of operations is hopelessly confused? Perhaps he or she was not adequately briefed by the CEO on what the issues were. Check out your conclusion.

- Be aware that we have certain tendencies of attribution. Generally, we underestimate external causes and overestimate internal cause when assigning reasons to the behavior of others; we do the reverse when assigning reasons to our own behavior. Watch and question the conclusions.

Much has been written about the theory of attribution and the various tendencies we have, depending upon such things as the relationship between the observer and the observed, and the genders of each. The point would never be to memorize these tendencies but simply to be aware they exist and to make attributions more conscious, and thus more accurate.

Interacting with others

Let us look at another example called the just-world phenomenon. This little gem of psychology can have a profound effect on how we treat other people.

A psychologist observed that students at a medical school resented the fact that they had to treat indigent patients. Wondering why — weren't the students there to learn? — he investigated the reasons for their attitudes. He found that many of the students believed the poor people were sick through ignorance and negligence and had somehow brought disease upon themselves.

Regardless of how one might feel about this particular study and the causes of illness, we find evidence of this phenomenon in a wide variety of situations. (The phenomenon has also been called "blaming the victim.") Rape victims surely behave seductively. Domestic violence is precipitated by the behavior of the one being battered. Poor people deserve no more than what they have. The flip side beliefs are also a part of this. Successful people have gotten what they deserve. So too with the healthy and wealthy.

We have a need to feel that the world is just and fair. An unpredictable world can be frightening. Certainly effort and talent are related to success. The problem with this phenomenon is that it ignores the fact that some factors are out of our control despite our best efforts; cancer can strike the person with healthy habits; a jury can come to a bizarre verdict. Another problem is that this psychological phenomenon can result in unnecessarily unsympathetic behavior towards others.

What does this have to do with lawyers and law firms? To the extent that law firms are composed of people who want to interact with each other in a humane manner (and most actually do), this phenomenon bears knowing and watching. We may lose compassion and sympathy if we let it inappropriately influence us. Your secretary has a temperature of 102 degrees but it is her problem because she was out on the town late all three nights of last weekend; you need the work done and wish she would quit sneezing on your correspondence.

Do riots, mass hysteria, fads and firm management meetings have anything in common? They are all likely examples of collective behavior.

Let us look at another example that is timely and relevant. Today we are seeing many layoffs, downsizings, reductions in force. Just-world phenomena may operate when one hears about another losing his or her job. Some people may assume that this is a fair (or predictable) world and the person losing their job must have done something to deserve it. The comments made at that time to the newly unemployed person may reflect that belief ("Why, I thought you were doing a good job") rather than offering the support and kindness that can be important at a time of professional transition.

An analogy is helpful here. When a fighter pilot goes down, the other pilots often assume pilot error. If they were to consider the possibility of factors outside the pilot's control resulting in the crash, they might not get in their own plane again; the just-world phenomenon helps them fly again with less anxiety. It may also help those in today's workplace to reduce their anxiety. After all, if one does a good job, (s)he will keep it. But it may also reduce the amount of humanity shown to the many displaced workers — lawyers and staff alike.

The just-world phenomenon is another topic about which much has been written. It would benefit training personnel to learn a bit more about it. Doing so at least helps one to explain some puzzling and surprisingly unsympathetic behavior.

Influencing others

For another example of something to be learned from psychology that can help the lawyer and the firm, consider
the phenomenon of groupthink. Can group influences work against good decisions and, if so, can they be avoided? The answers are what we can learn from this teaching of psychology.

Do riots, mass hysteria, fads and firm management meetings have anything in common? They are all likely examples of collective behavior. A particular kind of collective behavior, groupthink, can result in poor or irrational group decisions, and awareness of its operation can help prevent or ameliorate it.

Lawyers are members of several groups (e.g., their firm, the local bar, boards of directors, firm committees). They can be more valuable members of these groups if they know about the pitfalls of groupthink and can recognize its symptoms and know when it is operating.

Literature about groupthink cites as examples of its effect, the Bay of Pigs invasion, complacency of U.S. commanders right before Pearl Harbor, and the escalation decisions in the Vietnam war. Factors that can lead to groupthink are amiability and esprit de corps among the members of a policymaking group, relative isolation of that group from contrary viewpoints, and a directive leader who signals what decision he or she favors. The stronger the esprit de corps, the greater the chance of groupthink.

Here are a few of the symptoms of groupthink (consider groups of which you are a member when you read them):

- Is there an unquestioned belief in the inherent morality of the group? This can result in ignoring ethical and moral issues, a dangerous proposition;
- What is the degree of pressure to conform? A high degree of pressure can result in the lack of appreciation of any dissent. At best, creativity suffers;
- Is there an illusion of unanimity? Beware, because this apparent unanimity and absence of dissent seems to represent validation of the group's decisions; and
- Are there any mindguards (people protecting the leader from disagreeable facts)? This is particularly frightening when these facts might dispute the effectiveness or morality of the group's decisions.

One may think that the groups of which he or she is a member or of which he or she is aware are not making decisions of the import of an invasion of a country. Nevertheless, groupthink is a strong and seductive phenomenon just as are the others discussed above; it occurs often enough in the workplace that it is the subject of at least one videotape for managers. To be aware of its existence and to be able to recognize its symptoms can help prevent defects in decision making. Study of this phenomenon teaches us that the failure to seek and discuss contrary information and alternative possibilities can have disastrous effects for the firm and for its clients.

We have looked at only a small amount of what psychology has to offer firm training personnel and the lawyers and staff of that firm. And we have only looked at the example of psychology, a small part of what the social sciences has to offer the same audience.

Perhaps this short trek into another discipline will show the value of the interdisciplinary approach to firm training. This approach does not require a couple of undergraduate degrees or a huge budget for taking classes in the social sciences. It really only requires a curious mind willing to explore the various disciplines to find what can be pulled out and brought to the firm.

It is extremely advantageous to have a working relationship with professors in several of the departments of a local university. They can help you with names of basic texts, articles and other people with whom to talk. They can guide you through their field using paths that will best answer your questions and concerns. Find talented and helpful academic resources and both firm training and the professors will benefit.