

World Change, Choice, and Fetal Alcohol

This next 90 minutes is about fetal alcohol... and the choices we have, and the choices we can make.

The topic of fetal alcohol is a personal emergency to me... and fetal alcohol may be an emergency for some in this room also.

Fetal alcohol is an emergency for two reasons:

First:

I had a head injury some years ago.....car accidents, basketball, snowboarding, and two strokes and I am different now. As a result, I have had difficult experiences and have had to learn stuff I never thought would happen to me.

And second:

Fetal alcohol is a head injury ...it is a brain based birth defect and we are putting thousands of folks in jail and jailing them over and over again for longer and longer stretches of their brief lives and then we accuse them of not growing new brain cells while in jail. And to punish them for failing to grow new brain cells, we jail them longer again and again!

This social and institutional failure in critical thinking puzzles me, offends me, and I cry because it also saddens me.

I have been on the fetal alcohol conference tour now since Feb of 2000. I have attended many conferences and have heard many presentations, sometimes the same one over and over. Sometimes I think we are saying the same things to the same people.

A few years ago I read a wonderful book called "We've had a Hundred Years of Psychotherapy and the World's Getting Worse!" The authors are James Hillman and Michael Ventura. So in remembrance of that sobering book, I am going to follow the sage advice of Diane Malbin and start doing things differently.

My mom probably had a drink or two in the winter of 1951....my father had just bailed (or failed I am not sure...it is a family secret) out of medical school and later decided to teach high school in a remote mining town in the Canadian Rockies. Before writing this talk I spoke to Mom, age 81, about her drinking in 1950 and 1951. I was born in June of 1952. My mom drinks very little. Her dad was an Irish drunk, and died when he fell off a ladder. He worked as a conductor on the Canadian Pacific Railway and the drinking stories I have heard sound like legends. They used to stop the train in town and granddad would jump out, run across the street and buy cases of booze. My four Mahoney aunts and one Mahoney uncle also rarely drink. The Boulding side has no comment at this time: they are all dead.

Out of grade 13, my mom got a job at Essondale, now Riverview – the large sprawling 500 acre mental hospital a few miles from Vancouver, BC. Since no one wanted to work with the crazy people, they paid her to learn to be a nurse and offered the young nurses in training total and free medical care. Living in nurse's residence, she remembers walking about four miles down a gravel road to the Wild Duck Inn with four or five other nurses about once a month.

When I phoned mom last Thursday, I told her I was speaking here in South Dakota about fetal alcohol: she knows I do this work. I asked her when she learned about fetal alcohol and that women must not drink when pregnant. She said that I told her. I learned in 2000.

My mom worked as a psychiatric nurse until she retired in 1996. She worked in three of Canada's largest psychiatric facilities: in Toronto, North Bay, and Riverview and never heard the words fetal alcohol until after 2000.

That excuse is not available today. While widely spoken about, little has been done about fetal alcohol because I believe we do not like people who are different from us. I believe we are frightened by some people, partly because we may see an aspect of ourselves in them and do not like that characteristic. Sometimes we are simply mean and scapegoat these folks to make us feel better, to escape from our shabby lives.

My head injury was not from hockey, a gunshot wound, or because someone dropped an anvil on my head.

In months from November 1999 to July of 2000 I had two strokes...I fell down in Judge Steinberg's courtroom and woke up four hours later in a cat scan machine. Some fellow was asking me my mother's maiden name and who was the prime minister of Canada, the second stroke was less severe. I had three head on collisions (not my fault) and was knocked out playing basketball by Stu, the same sheriff who called the ambulance when I collapsed in court. I knocked myself out snowboarding...seems like for about an hour maybe...the snow was deep and it was cold on Cypress Mountain, and then some druggie n'er do well on Granville Street Mall knocked me unconscious from behind at 2pm on a sunny day with, apparently, an empty whisky bottle...there were many witnesses and their stories vary. I never saw him.

In July of 2000, I ended up a crying sobbing mess at my friend David Grunder's office....the best lawyer in the world...or at least in Vancouver. He said to me, "this is more than a friend can handle you need to see someone."

A week earlier, a judge postponed a court case and took me into her office. I was not behaving like the David she knew. She said: "get on disability". I later learned she had a major head injury from a car accident and saw something I did not see myself. Within weeks several friends phoned up and said the same: "get some help, see a doctor, you have disability insurance, use it!"

Immediately, there are striking differences between me and people with fetal alcohol.

Number one:

Most people with fetal alcohol do not have:

- a) Disability insurance
- b) Several spectacular friends saying “you need to see an expert.”
- c) The brain power to take a pause to say to themselves: “Yes...something is not right here ...there is something wrong with my brain. Who do I call?”

Number two:

I got better.....sort of...ask my friends for the other opinion.

At the end of our last psychotherapy session when I was complaining about my one of my two permanent symptoms...my now less than perfect memory, the psychologist I saw for nearly five years said: “Mr. Boulding ...most people would love to live with a working memory of say maybe 85 %...you have fallen from 95% to 90%...get over it.”

I have tough minded friends with extraordinary critical thinking skills and the courage to speak bluntly to me! And I have learned the hard way to “shut up and listen!”

Which leads to number three?

I can now laugh about my dark days of 2000 to about 2006 and my future, while not as I planned; it is nothing like having a brain based birth defect.

And I am lucky to have had the few whacks on the head...otherwise I would not be here. I have learned stuff I might have normally skated by. I suggest you might read an article I wrote entitled: “Mistakes I have made with FAS clients”. It is free on the website www.davidboulding.com. The text of this paper is on the same website. I do not need to worry about writing this down now you can read again later. I do encourage you to stop me any time and ask questions. I am always eager to answer questions. That is why I am here: to be of service to you.

Since July 2000, a central lesson I have learned is that how I am with others is how the world is. I have made up or stolen, you decide, five rules:

1. All behaviour makes sense.
2. They are not screaming at you, they are screaming for themselves.
3. Everybody hurts.

4. There is no size to hurt; what maybe large for you, maybe small for me.

And last:

5. Everybody wants to be seen and heard, truly seen and heard, because everyone matters.

My personal experience as mild as it is gives me some tiny bit of an idea of what it is like to be brain injured. And I have learned we do not like people how are not like us.

As a busy trial lawyer, I lived for years in a world of special privileges, instant respect, money, an exciting job, and lots of other great lawyers as friends. My job was exciting because of the great drama, the thrills, the intellectual challenges, and the real feeling in my body everyday; I did good work for people.

And suddenly, over the space of two weeks, I was no longer a busy trial lawyer. I was an un lawyer. It took about 18 months before I could read again. As a working lawyer I could and did read over a thousand pages a day. And I remember the day I could read again as if it happened yesterday. It was a Tony Hillerman novel I had read some years earlier.

Being an un lawyer, for me, meant my social circle evaporated, I had no daily routine. I sat at home alone, and was depressed, was medicated, and got worse.

I knew I was not good because I was no longer the trial lawyer. I was a person who stayed home slept and did nothing, not even read. I learned the world does not like you or want you much if you are depressed. You are not fun: you are not like your friends; you are different, unlike your friends. I believed I was unwanted.

This is the single biggest lesson of my life. Until July of 2000, I had everything. Privilege, money, status, and comfort. I was surrounded by people like me who liked me and I felt included. It was this physical feeling of being connected to my friends that gave my life meaning.

Reflecting back, I am amazed I still have friends. I hid from everyone, feeling not worthy of my friends.

Admittedly, my behaviour was weird.

And because I thought no one liked me, relationships went bad. I became isolated and life seemed dark. Eventually, I took all my savings went to Australia where no one knew me. I spent a year on the beach near Coolangatta in the sun and got a bit better. Going away to learn to surf was the smartest move I made (thank you Glen and Leisa). I made myself healthy with sun, lots of exercise, and new friends who demonstrated daily they liked me. I was included again. I joined the Tweed Heads Outrigger Club, Australians love their clubs, and life was good again!

The highlight of my recovery was deciding to have a birthday party for myself at age 53 and invite all my friends. I expected 10 to 20 people. Over 100 adults arrived with about 25 to 30 kids. We played road hockey all day. Hey!.... We are Canadian!

Here is the difference between fetal alcohol and all of us in this room.

We have friends. We can make plans and change our lives. We can carry out our plans with, as Joe Cocker says, With Help from Our Friends. The brain of David repaired itself. No such option exists for people with fetal alcohol.

My clients with fetal alcohol often lack friends. For me friends is a technical term for those people who stand up and show up when needed most, and keep on showing up. Over and over again. The father of a fetal alcohol fellow I know in Chicago, tells me he had to pay the neighbourhood kids to come to his son's birthday parties during elementary school, because his adopted son's behaviour simply pissed off all his classmates and he had no friends.

Perhaps I should read to you Marge Piercy's poem TO BE OF USE. I like the poem because it is about people like you who want to be of use, to be of service to others.

My injury was transitory. Lucky me.

Several years ago Judd Thompson from the Rapid City courthouse told me about the advice he gave his son as the boy went to college.

He told his son to be lucky.

To me he was telling his son you have made many good decisions, keep on being lucky. Thank you Judd.

The German playwright Heubler says : few are consumed by the fires of hell, most of us merely stand by the fire warming our hands.

It is my belief most if not all of us in this room are merely warming our hands. I cannot imagine having fetal alcohol. Imagine the psychological pain of your father having to pay the neighbourhood kids in grade 4 to come and sing "Happy Birthday" to you.

So what?

I am going to do this speech differently. Diane Malbin and I have been talking about this South Dakota event put on by Chiesman and as you know if you buy one book about fetal alcohol buy hers, and if you cannot afford the 12 bucks, write the title on your fridge, on your bathroom mirror and make TRYING DIFFERENTLY NOT HARDER your mantra.

I could be entertaining, informative, educational, and accurate. I have said that before and the world has not got better.

My judgment is that speaking technique is not enough because this is an emergency. I am going to act today like first responders do at accidents:

Observe. Prioritize. Act quickly to save lives.

I can hear the cynical voices.

And my assumption here is I believe that together we can save lives by changing how we are with people.

I WANT TO TALK about choice because I believe the only freedom I have is my choice to respond to my circumstances....and the choice I am making is that I want to talk about brains as if our lives, our world, our children, and their future depends on what I say here to you.

Here we go. And I am going to ask you to do things differently. This may not be the keynote speech you were expecting.

Here is the best legal advice you will ever get.

Stand up. Yes. Stand up, lets do this: gently close your eyes, open your mouth as if biting an apple.

Now take 10 slow deeper breaths. I will breathe with you so no one is embarrassed.

Fill up your lungs fully...do not lift your shoulders expand your chest like filling a balloon. One two

Now do not stop at the inhale or exhale; it is a gentle circle, endless. Gently breathe.

Three four

Draw in through your open mouth, not your nose...ya gotta open up and bring in the air.

Five six seven

Full deep breaths and full complete exhales...let it all out do not hang on to that old air

Eight nine ten

Now there...how easy was that...congratulate yourself ...smile, sit down...there is more to come !

That simple act of breathing does many things...more oxygen to your brain....it is relaxing.....it reduces panic....it gives you a moment of safety.....it slows down heart rate...which is good in itself.

And

Here is the clincher...the championshipYou feel good, eh! ...probably looser, and your mind is sharper, and you are paying attention more now than you were 5 minutes ago.

This simple act of breathing is a natural rescue technique we all use when in trouble. Olympic athletes always take the time to breathe before a race, as do the foul shooters in the basketball games, especially in a clutch situation.

Guess who does not breath when in trouble?

Guess who in a moment of panic does not take the time to reflect, to take a breath to review their options?

Guess who when something unwanted in life suddenly arrives forgets to breathe and automatically goes to automatic pilot?

I want to give you some take home tools. That was your first: breathe. And breathe with your clients. The breath practice work may save their life.

Here is a story. I like stories because they are data with soul. I learned that from Brene Brown. Look her up on TED.

A couple in Alaska, both professors, adopted a young girl at birth. They were told she “probably” was going to have some fetal alcohol “issues”. They did the research and as soon as she was ready for vitamin pills they gave her 3 (three) vitamin pills every day. Every day. One was a vitamin, another was a mineral supplement recommended by a pediatrician. The third was a sugar pill. When she was 14 the sugar pill was stopped and a birth control pill was included. She is now living in one of the nearly “independent living” homes and has had no unwanted pregnancies. This story demonstrates the power of repetition. Repetition saves lives.

So repetition with heart is your second take home tool.

Before we talk about brains I want to speak to you about heart. We are alone. We live alone trapped in our skins and long for connection with other human beings, to be with others, to be seen and heard as we see and hear ourselves.

Here is your third take home. If you go heart first, you do not need to be a trained therapeutic psycho-neurologist to help persons with fetal alcohol. Heart requires me to accept the person before me as if the person was my mom and we were talking about 1951.

You will have guessed this technique of heart was the kind of saying our mothers used to say to us. Remember this: “David, if you keep frowning someday your face will someday freeze and you will always be a frowner.” It was correct then as it is now.

Often as professionals we slide back and stay in our roles as lawyers, judges, social workers, teachers, and cops. I am not saying abandon your professional skills. No. I am saying if you chose to make a difference in the life of a person with fetal alcohol, or any person, be personal. Be honest. Share feelings. Stay attentive to the situation. Avoid control and coddling. Be there with them. You need not fix them, you cannot....the brain damage is permanent. Offer connection. That will save their life.

My teacher, the social worker, David Raithby, says “Be relational”. This does not require you to become some kind of tofu filled bowl of peace love and grooviness where anything goes. No.

All we are saying is give the personal in you a chance. Sometimes it may never work. As lawyer I have met some psychopaths. Every cop, social worker, and teacher has their favourite psychopath story. Thankfully they are few and far between. Almost everyone is like us. We all want connection, contact, and loving kindness.

Most persons with fetal alcohol have had a life of frustration, rejection, anxiety, and despair. Sounds like a country and western song. Which as far as I know makes it true!

Relation skills can be taught and can be learned. So, your fourth take home is learn to be relational. It is like riding a bike:

A) being relational requires you give and accept yourself and

B) it takes practice.

I have learned how to be relational from people in Rapid City. Specifically, I have learned, as I said earlier, from Judd. I also learned from a senior near retirement fellow in the sheriff’s office when I was here a few years ago. He was good with people and told me a few stories. The stories were designed to move an arrogant lawyer toward becoming a less arrogant lawyer. These old guys know a few things: watch how they are with people. When I go to various towns I like to go on ride alongs with the local cops. My Rapid City ride along was a gift. I saw police do wonderful people to people heart connecting actions. I took notes. Much of police work is simply talking, helping out, and mostly listening. The listening is the foundation of being relational.

Your fourth take home is in the form of a sleight of hand trick.

Here is brain anatomy in 30 seconds...first there is knob on top of the spinal column I call the snake brain...it also is called the reticulating activating system...RAS...controls heart rate breath, and those body processes when do not control by will...digestion, etc... Use your fist to model it.

Then there is on top of the snake brain is the dog brain around the snake brain...this gives the brain the powers of a dog...and that is a big step up from a snake...see the movie Lassie. And like Lassie, the dog brain contains the limbic system...the emotional brain.

Obviously if you are a neurologist you now want to jump and scream “ It ain’t that simple...I know...this is the basic version”.

You hired an unlaywer, not a scientist to give this keynote.

Next is the chimpanzee brain...the neo cortex the left right broccoli kinda stuff on top of the dog brain...and as we all know chimps are smarter than dogs and can dress in funny clothes and play poker and help Tarzan rescue Jane.

The truly human addition is next. Here are the larger frontal lobes...often called angel lobes. And then add on the more developed, bigger cerebellum...that bit added on in the back behind the ears. These two additions: the bigger cerebellum and the large frontal lobes, are what separates humans from chimps.

With these additions, you can be a ballet dancer, send a man to the moon, write symphonies, enjoy Shakespeare, and do New York Times crosswords in ink.

How does knowing this brain stuff help? How is this a take home tool?

Here is the nugget: there is the brain and then there is behaviour . No brain, no behaviour. Rocks have no behaviours because they have no brains.

Snake brain equals snake behaviour. Dog brain equals dog behaviour. Chimp brain equals monkey business.

Human brain equals human behaviour. This is the take home Diane Malbin says I must tell you. Done. Stop your fixation on changing behaviour. See the brain. Note how the brain before you is not like your brain. Stop using all the failed interventions designed for complete brains. To help you here is a partial list of failed interventions: jail, timeouts, complex probation orders, rewards, and other behaviour modification techniques.

So if there is human brain dysfunction because the brain is missing parts, then there is resulting human dysfunctional behaviour. We often call it crime for the lack of another word. Teachers call it acting out. Kids in school describe it as “ he always pisses me off”.

What is brain dysfunction?.... it is a ten dollar word.

Here is the shiny penny answer.

Put your hands together flat out palms up as if a shelf.

Now here is the only one thing I want you to learn today. Get this and you pass the test. And you have to do the demo to get it.

Put your flat extended hands out in front of you and take your chin...yes do this...If I see someone not playing along, I will call your mother and say you do not play well with others.

Your brain in the early stages say day 15 to say day 25 is a disc. Use your hands to model a brain as a disc with your outstretched hands in front of you.

Yes, keep your hands extended...this will not kill you and you can use this to make the world better.

Normally this disc as a brain goes like this...the flat shelf of your hands goes from flat to a ball formed by your two fists side by side. Move your hands from the flat out shelf shape to the closed two fist shape.

Got that? Do it again...go from the flat hands extended to the two fists side by side...that is normal development of your brain.

Remember your chin...now take your chin...with your hands in the flat shelf position run your chin around the edges of your fingers.....do it several times....touch the edges of your fingers with your chin.....over and over again.

Think of your chin rounding your fingers as if it was alcohol flooding the brain cells of the developing brain....

Alcohol, called ethanol by brain scientists, is a very small molecule: it goes into each cell through the cell wall.

Alcohol is a solvent like nail polish remover, like paint remover. The alcohol surrounds the individual brain cell, floods the inside of the cell, and kills the cell.

Now go through the transition of brain development...go from the flat shelf of your extended hands to the two fists side by side

Imagine your fists as the left and right hemispheres of your human brain and your arm as the spinal column with the snake brain at the top and the dog brain as your wrists.

Do it again see the change from flat to a ball. From a flat shelf or disc to a ball. Do it again to see brain development.

So what has the alcohol done....it has killed cells represented by your out stretched fingers when in the shelf position. The alcohol has killed cells in the periphery of developing brain. As the brain develops and the disc becomes a ball, you can see you have killed deep interior core structures of the brain. Experts can tell you what parts are killed, what brain parts are missing, the wrong size, or in the wrong place.

Now you can see the fetal alcohol affected brain is missing pieces. Fetal alcohol is a physical disability. And no disability insurance is available.

Generally speaking we think that the more alcohol in the developing brain the more missing pieces because there is more alcohol available to flood into cells and kill cells.

So fetal alcohol is a brain based birth defect.

Asking a person to use their brain in the same way you use your brain is a bit like telling the blind kid in math class that he could see the blackboard and do better on math tests if he only tried harder.

Alcohol in the brain has several negative effects: direct and indirect. Here is the unlaywer version.

First, brain cells are killed... the brain is missing pieces.

Second, alcohol causes brain cells to migrate..... to move from the right place to the wrong place. This means some cells hook up to the wrong cells. Brain development goes awry, not according to plan.

Do this demonstration as a way to understand my point.

Put your hands together forming a triangle between you two thumbs and the two first fingers of each hand.

Got that...of course you do...everyone here has a complete brain.

Everyone here in this room has a brain that is like a 99 storey tall sand stone pyramid: one cell on the top and 99 trillion billion on the ground floor.

Make this picture in your mind.

First, people with fetal alcohol have a 99 floor sand stone pyramid with sky lights.

And you and I have a series of escalators in our brains....for example there is one from floor 25 to floor 87

Second, people with fetal alcohol have the same escalator and it goes from floor 25 to only floor 57.

The result?

The result is that people with fetal alcohol have brains with missing pieces and incorrect connections which cause less than perfect brain function, a loss of cognitive function, lowering of brain power.

And that is called brain dysfunction

And brains cause all behaviour. All behaviour makes sense....eventually when you have all the information. Diane Malbin says where there is frustration over behaviour, there is usually missing information.

And brain dysfunction causes behaviour also... incorrect behaviour is how we term it in the court room. Criminal behaviour.

You will notice I will try to state my underlying assumptions as much as possible.

My thinking is that when my assumptions are stated it makes for clear communication.

Here is another assumption: I believe humans learn more from stories than from lectures.

Bambi

The Bouldings operate Strathcona Lodge Outdoor education centre on Upper Campbell Lake 30 miles inland from the Ocean on Vancouver Island. The lake was formed when BC Hydro flooded the valley to use the stored water to make electricity. The new highway is 150 feet above the old road which was on the valley floor. The new road is paved and for 6 miles is carved out of the rock cliffs.

Last summer I was driving the dump truck to town, 30 miles away, to get navajack for making concrete. Truck traffic coming from town all flashed their lights at me indicating something up ahead. I slowed and rounded Cromer's Corner and in the middle of the road is a baby deer, a new fawn wondering down the middle of the road.

I looked about for mom and she was on the other side of those waist high concrete barriers designed to keep cars and speeding logging trucks from diving into the lake on the tight corners. The little baby could not jump the barrier to be with mom and go down the slope 20 feet to the lake.

I stopped, flipped on my flashers, got out and ambled over to the animal. The darling deer walked up to me as if we were old friends. We sauntered over towards mom on the lake side of the barrier, the fawn jumped up and could not jump over. I put my hands on the deer behind and boosted baby bambi over the wall. Mom never moved and kept looking at me. I said goodbye and drove off.

Bear

The next day I loaded the dump truck with cardboard for the recyclers in town and was going to bring back more gravel. About a mile from where I saw Bambi, I saw a black bear cub wandering in the cliffside ditch. In this section of the highway there are vertical cliffs about 100

to 200 feet tall. The bear was looking for the draw up through the cliffs to the forest where he lives with his momma.

The mistake he had made was going west. If he would go east about 100 meters there was a draw with a gentle slope that would have easily taken him home. On his chosen course he was faced with vertical slabs blasted from the rock walls. He would try to climb up fall and try again.

I stopped and tried by using my horn to get him to turn around and go east.

My efforts failed.

I know enough to not get between a cub and a momma bear. She could be lurking on the lakeside of the road in the shrubbery. If you have never seen a bear run, you have not witnessed greased lightning. Bears move so fast Olympic athletes would be eaten up before the sound of the starter's pistol had faded.

There was no way I was getting out of my dump truck. I even tried driving a bit in the ditch to get Junior to go east to the draw. After a few futile minutes I gave up. Coming home hours later, the cub was dead in the ditch. I suspect a mine truck or a loaded logging truck struck the 150 pound cub and flung him into the ditch. To see a dead baby Billy bear is heartbreaking.

I could stop right after the first two animal stories...because in there is every thing I have to say....sometimes the children need a hand up and sometimes there is nothing you can do.

An adopting parent told me her kids (both fetal alcohol) were excited to go to a pawn shop. Her son, then 10 years old, later a certified diesel mechanic, wanted some tools to take stuff apart and rebuild it. His sister was also excited. After they left with some wrenches for the boy, the sister, a year younger, appeared sad.

The mom asked what was bothering her. She said she was disappointed because in that pond shop there were no fishes, no waterfalls, or lily pads.

I was asked to speak in Melbourne, Australia by a non-profit outfit that helped people with brain injuries. Tickets were bought, I was ready to go. It was to be the first fetal alcohol conference in Australia. An American judge from Seattle was invited, as was Kay Kelly from the Anne Streissguth Research team, and Ed Riley from San Diego. This was billed as real big deal. A week before the conference was to open, a member of the Australian wine and beer industry complained to the government. The minister of health told the non-profit to cancel the conference or not get any government money next year. The conference was cancelled the next day. The Americans were already in Australia visiting the famous Great Barrier Reef. I was in Vancouver, ticket in hand. After some panic phone calls we went to Australia anyways and did some free workshops in Sydney, and Melbourne I organized over the phone after I arrived. We made sure the newspapers knew we just "happened to be in Australia visiting as tourists."

In Canada lawyers are required to have yearly continuing education hours. I attended a course for lawyers who do brain injury cases. The star speaker was the chief neurological research doctor the local hospital had poached from Los Angeles. He was apparently the hot shot in brain science.

He said two things that might get your attention,

1. the human brain is the most complex thing in the known universe. And the next item in complexity is a long ways down the scale of complexity.
2. He said when he gives a single drug to a research patient he has a good idea what happens. When gives two drugs to the same patient, he has a less accurate idea of what happens in the patient's brain. And this accuracy is dependant on the patient having taking no dietary supplements, taking no over the counter medications, and having no stress in their life.

He then said if he gives a patient three drugs he is guessing what is happening in the brain. And if he gives a patient four or five drugs, he has no idea what is exactly happening in the brain.

The lawyers were astounded because most of their brain injured clients, mostly from car accidents, were on five or six drugs at once and were experiencing huge stress in their lives.

The good doctor said research docs actually know very little about brains, and most of what lawyers know is wrong. The legal silence in the auditorium was deafening.

This is not good news. And I walked away thinking I need to read more brain research.

Since I want to talk about brains, I must talk about the major problem when we talk about brains.

The major problem is called "behaviourism", a type of psychology.

This branch of psychology was made popular in the 1930's and reached its height of fame with a fellow called B. F. Skinner who was a professor of psychology at Harvard, the famous university in Massachusetts.

Generally speaking Noam Chomsky in 1959 destroyed the intellectual underpinnings of behaviourism. Then in the 1960's the new thinking ushered in the many varieties of "cognitive psychologies". We have now a more sophisticated, more human psychological understanding of humans. My favourite is called existential humanism.

Existential Humanism is not what concerns us here, although my speech to you is very much in that tradition.

Our concern with behaviourism is that its notions of positive and negative reinforcement... punish and reward are what most people believe behaviourism as a psychological system is all about.

The problem is as a psychology for changing behaviour; a system that relies by a series of punishment and rewards is too simple. We are more complex than that. That is why I mentioned the good research doctor from St.Paul's hospital in Vancouver.

Although Behaviourism was given an intellectual death blow in 1959 by Chomsky in a review of a B.F. Skinner's book, VERBAL BEHAVIOUR, it has tenaciously remained in the public eye.

If we choose to make a difference in the world of people with fetal alcohol we cannot be trapped by a psychology that is essentially as simple as positive and negative reinforcement.

We need to admit the brain is complex and save people's dignity. Carrot and stick psychology never worked for me, and I assume it does not work for you. What does work for me, as hinted above by David Raithby, is "relational" support. Being in a relationship as the great teacher psychologist Carl Rogers maintains is the greatest way to learn. I recommend FREEDOM TO LEARN 3rd edition by Carl Rogers and H.Jerome Freiberg, and PEOPLEMAKING by Virginia Satir.

I also recommend a book by Alfie Kohn called: PUNISHED BY REWARDS: The trouble with Gold Stars, Incentive Plans, A's, Praise and other Bribes. He backs up his ideas with ample persuasive science. He would agree with Satir and Rogers

The point of this psychological sidetrack into a almost entirely discredited psychological science of the 1930's is that most if not all judges, cops, lawyers, probation, and corrections staff, and government policy makers love behaviourism because it is simple and it justifies the common dislike of people not like us. The legal system is all behaviourism; it is all carrot and stick. Ironically the carrot is disguised as a bigger stick.

It goes like this. The unstated assumption in all courtrooms, classrooms, and generally in all jobs and sports is that you can learn from your mistakes and you can learn from the mistakes of others. In law we call this specific and general deterrence.

Any lawyer will tell you most of his clients demonstrate daily this assumption is false. Here is some good news from Texas. Research has show, unsurprisingly, that if you run a prison and want to make a point that a certain type of criminal behaviour is bad you generally need about 6 or 7 years in a jail cell to make your point and for the learning to generally stick.

Two things flow from this new research.

First, that it comes from Texas where they execute more folks than any other place in the world except some third world dictatorships is important. Second, Texas is a place where sentences are

generally longer for the same crime than anywhere else, except Saudi Arabia, where they still cut off hands and heads. So when new research says prison sentences not need be long and the research comes from Texas, you pay attention. Don't mess with Texas.

All of our prisons are operated on strict behaviourist principles. And many of you will easily agree that our prisons are failures at changing behaviour.

Every week I get an email from some parent who has a son in prison. Almost all say he did his time and is back in prison because he violated his release terms. They all say he is doing more time because of not following the release terms than for the original crime.

Why?

Because the release terms designed by the behaviourists are setting the person up for failure. His brain is not like the brain of the person, usually a judge, who makes the release terms. The judge with a complete brain, probably would not do the crime in the first place, and then says, I will let you out for good behaviour, and put you back into if you fail to do as I say because I (with a complete brain) have a plan to make you stop being a criminal.

The hidden assumptions again are learning from your mistakes, and learning from the mistakes of others. These assumptions demand a complete brain.

If the person with strict parole conditions has a memory problem, a reasoning problem, or an attention problem because his brain is missing pieces, then you can expect him to not follow his release conditions and be re jailed.

There is another assumption I call the elevator theory of learning. If you make a mistake, behaviourists turn up the consequences.... more time in jail, larger fines, and more restrictions on your liberty.

Looking at the criminal legal system, it seems the system is designed to manufacture criminals.

How did we go do wrong?

We went wrong because we do not like people who are not like us. They frighten us. Perhaps we fear we are like them and do not like that aspect of ourselves.

And criminals are not like us. And everyone knows the criminals are in jail and not working in banks, or on Wall Street, or selling sub-prime mortgages to poor people. Everyone knows that the poor, the non-whites, the stupid, the intellectually disadvantaged are the real criminals, because they not good people like us. We are not criminals.

I believe the rich get richer and the poor get prison.

A story happened in a courtroom some years ago. It was a slow afternoon and I was waiting for my guy to be brought up from cells. I knew the judge socially, she was dating my buddy. I

knew both prosecutors as I played basketball with them. I knew the court clerk as she and husband were members of my outrigger canoe club. The two cops were friends from skiing, we all borrowed the same friend's ski cabin on Mount Baker. The defense counsel from legal aid was a friend of twenty years; we went to university together.

A kid was brought in, pleaded guilty to smoking dope. The prosecutor stood up and said his usual nonsense about marijuana being the scourge of mankind and since it was a very dangerous drug the court needed to treat this case seriously as it was the kid's third conviction. The defense lawyer threw his client at the feet of the court begging for mercy. The judge gave a harsh lecture on the evils of drugs and increased his sentence from the last conviction. As the judge gave her HANG'EM HIGH lecture, the court clerk sitting below and in front of the judge was rolling her eyes as if somebody was crazy.

The point is I was the only one in the room who did not smoke dope and the clerk knew it as did all the other people in the courtroom. All the members of the legal system in that room that day, except me, were dope smokers, and dope smokers for years! I shook my head when I realized this ain't fair. The police do not catch the smart ones. The police do not catch people with complete brains. Police merely lick the icing off the crime cake.

Proof? Read Professor David H. Bayley's POLICE FOR THE FUTURE, Oxford University Press. Especially pages 3 and 34.

I believe those with missing brain cells fill our jails because they are easy to catch. Proof of this assertion would be a quick look at the war on drugs. How many Mr. Big types are in jail...5, maybe 6. How many bit players are serving enormously long sentences? The USA jails about 735 per 100,000. Canada about 116, Australia 120, England 60, France 84. Explain this without saying the police catch the low hanging fruit!

The judge does not see the brain of the person with fetal alcohol. He sees only the negative behaviour we call criminal behaviour.

Bluntly, it is not the Judge's fault. Blame Daniel McNaughten.

Daniel was probably a paranoid schizophrenic Scotch nationalist when he tried to shoot the Prime Minister of England in 1843. He missed the boss and shot the secretary, a Mr. Peel. He was tried for murder and found not guilty by reason of insanity by a jury.

Queen Victoria and the House of Lords were not amused.

The House of Lords on its own motion had a meeting and called in the experts who gave evidence at trial and had a sort of rerun of the trial, this time getting it right....or at least that was their lordships learned opinions.

The result was in 1843 they wrote the McNaughten rules which every democracy in the world has put into every criminal law system that fancies itself a democracy.

Bluntly, the rules say if you know it was legally wrong, you are not insane and therefore we can hang you.

There are two small problems.

First, the rules were made in 1843. Sigmund Freud was born in 1856. Respectfully, the Lords, and every one else in 1843, knew little about brains.

Second, the rule makes no sense if you have a brain that is missing pieces. The rule works beautifully if you are a judge or lawyer because generally speaking they have complete brains and they behave differently than people with a brain based birth defect like fetal alcohol. As a rule, like stockbrokers and bankers, Judges do not get arrested.

For me, there is a third bigger problem. We do not like people who are not like us and no one in this room is likely to kill the Prime Minister of England.

Research people call this habit of not liking people who are not like us “othering”. This means there is you and me and then there is those “others” who are not like us.

We are not like them. We are smarter, have blue shoes or some other characteristic that we share that they do not have. I think it is also we fear them. We see in them an aspect of ourselves we do not like and to distance ourselves from this ugliness we see in ourselves we classify them as bad, not like us, the other.

Earlier I mentioned how I learned this lesson personally. Suddenly becoming an un-lawyer, it was as if I was an unperson and I did not matter. I felt excluded. I probably was not. And I felt I was excluded in every cell of my body.

Now put yourself inside the clothes of a person with fetal alcohol. There is a simple demo to illustrate this point. Turn to the person beside you. Take a few slow deep breaths, five or six. Look carefully at the person. Notice the ears, the nose, or some feature of clothing. Take a few more deep slow breaths, remember to open you mouth as if biting an apple. Breathe.

Look closely. Courage is required if you choose to look into the eyes. Look closely. This person has a mom, a dad, perhaps siblings. This person eats the same food as you, needs shelter, warmth and protection from the weather.

Take a few more deep breaths and slowly think what is different about the person you are examining. And there are many differences. Now think what about this person is the same as you . Think mom, dad, brother, sister, and American citizen.

Casually looking, or with mere glances, you cannot tell much about the brain before you because the person is exhibiting little behaviour. The person is looking at you and not engaged in crime.

By looking and talking you can get lots of information about the person if you open your heart.

To find out about the brain, you have to notice small details, you have to ask questions, listen and share your experiences. You have to have a relationship with the person you are examining.

What you have just done in the last minute never happens in court or in a classroom or on the job. We do not see the person, we fixate on behaviour, on their skills listed in their resume, on their clothes, their education, their family, and maybe income! We have decided behaviour separates the good from the bad, the “like us” from the “not like us”. We use behaviour because it is obvious, it is easy and requires no work on our part. In court we use police reports and video . We rarely just talk and be with the person. We almost never enquire about how our brains are different.

The intent of the last, brief exercise is to demonstrate choice.

We choose the facts we make foreground or background. We decide what makes the person different. Rarely do we decide to see what is the same. We decide to exclude because we are frightened. They are not like us we had better not get too close.

We can choose to see the person who has ears and a mom like us or we can focus on the behaviour that pisses us off and say you are not like me. I suggest you see the documentary film by Dewitt Jones, called CELEBRATE WHAT IS RIGHT IN THE WORLD. He was a photographer for National Geographic for 35 years. Watch this film with your family.

We can choose to make a difference in the fetal alcohol world by being curious and asking this question...what is going on in that brain before me?

And you begin this by choosing to notice small things like that brain is not like mine, I would not do that. If you are curious you might ask: “What were you thinking?”

That is the iceberg question that can sink the Titanic. When you ask: “what were you thinking?”, you may get an answer that is truly baffling, you might hear, “I dunno.”, or you might hear an answer that leads you inescapably to the conclusion your brains are very different.

I believe all criminal law comes down to that simple question: “What were you thinking?”

If you ask with an open heart, the answer you get will lead you places you have never been. You may hear obvious brain dysfunction. You may hear answers that can only be explained by concluding the brain before you is missing pieces.

As a mental exercise sometime sit down any day at about this time, say nearly 10 am and list all the brain functions you have used since waking.

Make the list in two sections. First detail all the tasks and then generalize them into broad categories.

For instance dressing requires planning thinking ahead to account for the weather and for what is appropriate which is a social skill called adaptive behaviours. Dressing also requires memory, as in did I wear this yesterday? Or did a colleague say I look fat in this?

You probably had a time schedule to keep which requires attention to details in that you cannot spend an hour at breakfast.

You may have had to sort out children issues, referee some dispute which calls for reasoning.

You may have to note that you have allergies or some sensitivities, to say wool or tight collars.

If you drove here you had to use split second decision making while driving and that requires you to have faster processing pace that when you decided to have corn flakes instead of eggs.

If you spend about 30 minutes doing this exercise you realize at least two things : first, it is amazing what brain work we do that we take for granted, and second, when we start listing brain work it turns out to be a long and complex list.

And now think what it might be like brain wise if you had difficulty prioritizing, remembering, abstracting, predicting, associating and other functions you do effortlessly?

How would your behaviour be different?

There is another aspect to choice that I like to point out by mentioning my friend Jocelyn Palmer now a Provincial Court Judge in probably the most important job in Vancouver. She is the head of Drug Court. For several years she has run a successful program aimed at taking drug users and guiding them to a drug free life. She says when she gets in her judicial robes and goes up on the bench she has to decide to help some one or punish someone.

She is clear about her choices. And clarity helps because sometimes we are not clear and either lie to ourselves, or make up a story to fit a negative choice. All the parents in the room know this as rationalizing, which an attempt to justify our attitudes, beliefs or behaviour that might be unacceptable. Teenagers are experts at rationalizing why they have to stay out late or drink alcohol when they are fourteen. Adults rationalize every day. When I do it and catch myself, I laugh. I am such a child when I rationalize. Usually my friends give me the “look”.

For example: To your teenage daughter, “I do not want you to go to the dance with Billy, he is from the wrong side of the tracks, and you could do better”. Your daughter recognizes your crazy talk and if she is smart realizes this a battle she cannot win. She whines in reply, “Mom” with much feeling hoping you will change your mind.

Take a slow breath. Smile and admit that you have once or twice used rationalization to get yourself out of a sticky situation.

The choices the detailed above show a decision to persuade by faking great psychological pain. Teenagers are skilled at this. This tactic occupies much of what happens in family or divorce court. Pause. Take a slow deeper breath and consider admitting you have done this also.

Smile. Welcome to the human race. You now possess reflection, and self awareness. You are now certified as a human being and by the power I stole from the State of South Dakota, I pronounce you all fully functional humans.

I wish you will take your human-ness and extend it to my clients who could often have not been able to reflect easily and like young Bambi on the highway often need a bit of help. My clients often lack the brain skill to see themselves in social situation, and most often fail to see how their actions change the lives of other people.

And yes.... some bears are going to die because they cannot see that the way behind them is the way to the safety of the forest.

Please choose to avoid despair. This is difficult work, and remember the star thrower story of Loren Easley.

Compare this rationalizing style of answering that we the brain competent use with a full scale blowout anger screaming from a frustrated child with fetal alcohol. Often the person with fetal alcohol misses the social subtleties. We are often uncomfortable with people who are lacking in subtle social graces because we tell ourselves they are not like us. I have had public temper tantrums. And I have been lucky to not get arrested.

I want to say a word about arrogance because the world involving fetal alcohol is full of arrogance. I know arrogance. I used to know better than my clients. I used to know what was good for them. Now, I ask them, and we discuss it as if we were equals.

I know because I am arrogant and I would like to blame it on 20 years of being a lawyer. And yes, you caught it..... that is a rationalization.

Arrogance occurs when you do not see the person before you as a person like yourself. Often you decide they are a child or a victim or some thing lesser because you know better. You with your perfectly complete brain know better. And my mother is the pope.

Here my assumption is: how we are with each other is how we are in the world and how the world is.

If you see the person as a lesser person you are taking away their choices and making decisions for them. That does not mean you let a child be run over by a bus. No. And it does mean you need respectful dialogue and mostly you need as Diane Malbin says you need to:

1. think younger much younger,
2. you need to stretch your definition of success
3. you need to act in a relational way, with heart and a clear head

It is arrogant for me to say to a person with fetal alcohol, “I know how you feel”, when I clearly have no ideaonly a glimmer.

It is not arrogant to be with the person, just be with them, listen and see them as they see themselves. It is not arrogant to offer support, being honest, sharing feelings and staying attentive to the situation. And it is not arrogant to be directive, confrontational, to take care of people, if you are invited and it is in their best interest.

I have learned from senior probation officers that positive and negative reinforcement (the game of carrot and stick) is a waste of time.

My brief head injury experience amazed me as how fast and far I slide down evolutionary ladder. I was living in my snake and dog brain for years. I went to incompetent quickly, I felt isolated, and I behaved badly. I avoided friends. The physical separation from my community of lawyers, the supposed rejection, the feelings of being alone were terrifying.

And I came out a little bit in about 18 months...or at least I could read again.

People with fetal alcohol can never re-grow brain cells. Someday I will tell you a frightening story of re-growing brain cells.

I have a brilliant friend, Susan Brooks. She is a law professor. Together, (mostly her) we wrote an article for an academic publication...it is free on my website you might find the info helpful. We may talk about the details of the new article in the second session.

While grinding out the article we got to talking about what I have said to you about this being with people. We began to talk about soft skills and hard skills. She teaches this stuff at the law school.

She was a social worker for years before she was a law professor. She did child apprehension work as a social worker and later working as a lawyer she was a child advocate. She has all the technical hard skill of a lawyer and child advocate. She clerked for a federal court judge and is now the associate dean of a law school. And she says the soft stuff is the hard stuff. She means being relational is a soft skill and she teaches young lawyers these soft skills.

I have been up here blathering, arguing like a lawyer. I am trying to persuade you to be with people with fetal alcohol in a different way. You do not need a PhD in neurological pediatrics.

If you are with people, truly with people, breathing with them, and noticing small things because you are curious and you can share your own vulnerabilities that is 99.99% of the way there.

The skills required are two.

Here they are:

1. look and see the brain, and see the brain of the person before you with your magnificent open heart
2. once you see that brain equals behaviour and you take in the whole person with all their messy stuff, the rest is easy, like melting an iceberg in Arizona

The reason I mentioned my mom and her alcohol consumption while she was carrying me in her womb is because there are ways to have these difficult conversations. Ask. Ask within a loving framework. Be relational.

If you have confirmed maternal drinking within a open hearted relationship you are about to step into the end zone for a touchdown during the Super bowl.

I was curious with mom had her strolling down memory lane. She reached back in her memory to 1949 to 1951. She understood the gravity of the questions...and I learned a lot about my 81 year old mom in that Thursday phone call.

You can do this with clients. In my breakout session we will cover some specifics of these soft skills. And practice. Yes. You can learn and practice being relational.

The intent here this morning is to give you an overarching framework...a structure you can build to your specifications for working with this population of fellow humans.

I have laboured here to model how to be relational with fetal alcohol folks differently. It is not hard, just different.

As Susan says: the soft stuff is the hard stuff. Everyone in this room has an open heart. Like me you love your mom, your kids, maybe even your grumpy husband. You are all experienced open hearted folks.

All I am asking is to give your open heart a chance to shine. And when you shine in a relationship together you can change the world. It is the only way to change the world.

All students of world history will tell you that since early times, say about 50,000 years ago, all of human history has an arc, a pattern, a flow and it is towards fairness and justice. For further and better proof read Aeschylus's trilogy of plays called the ORESTEIA written 2000 years ago.

We are getting a bit serious here.

Ooops.

Here are some bumper stickers from Moe's books on San Francisco. You know Moe's bookstore from the movie THE GRADUATE.

1. Everyone does better when everyone does better.
2. We measure a civilization not by money, or armies of computer power, but by how we treat the disadvantaged.
3. The most violent element in society is ignorance.
4. It is easier to build strong children than to repair a broken man
5. Be the change you wish to see in the world.

My foundation assumption is how we are with each other is how the world is. My number two assumption is that we can change the world one conversation at a time. Today I have offered you some info.

Don't believe a word I say. Try it. If it works for you, use it.

David Boulding / 22 January 2011 / Port Coquitlam, BC, Canada