

Combined Presentation 10:00-10:40
10:40-11:00 Combined Q&A

Changing Attitudes About Client
Communication
Clark D. Cunningham

Professional Identity Formation: Better
Understanding the Nature of the
Attorney-Client Relationships and the
Importance and Characteristics of Great
Client Service
Jerry Organ

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CHANGING ATTITUDES ABOUT CLIENT COMMUNICATION

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Cunningham, "What Do Clients Want From Their Lawyers?"
2013 Journal of Dispute Resolution 143



What do clients most care about?

CLIENT PERCEPTIONS OF LITIGATION

WHAT COUNTS: PROCESS OR RESULT?

Tom Tyler, *Trial Magazine* (1988)

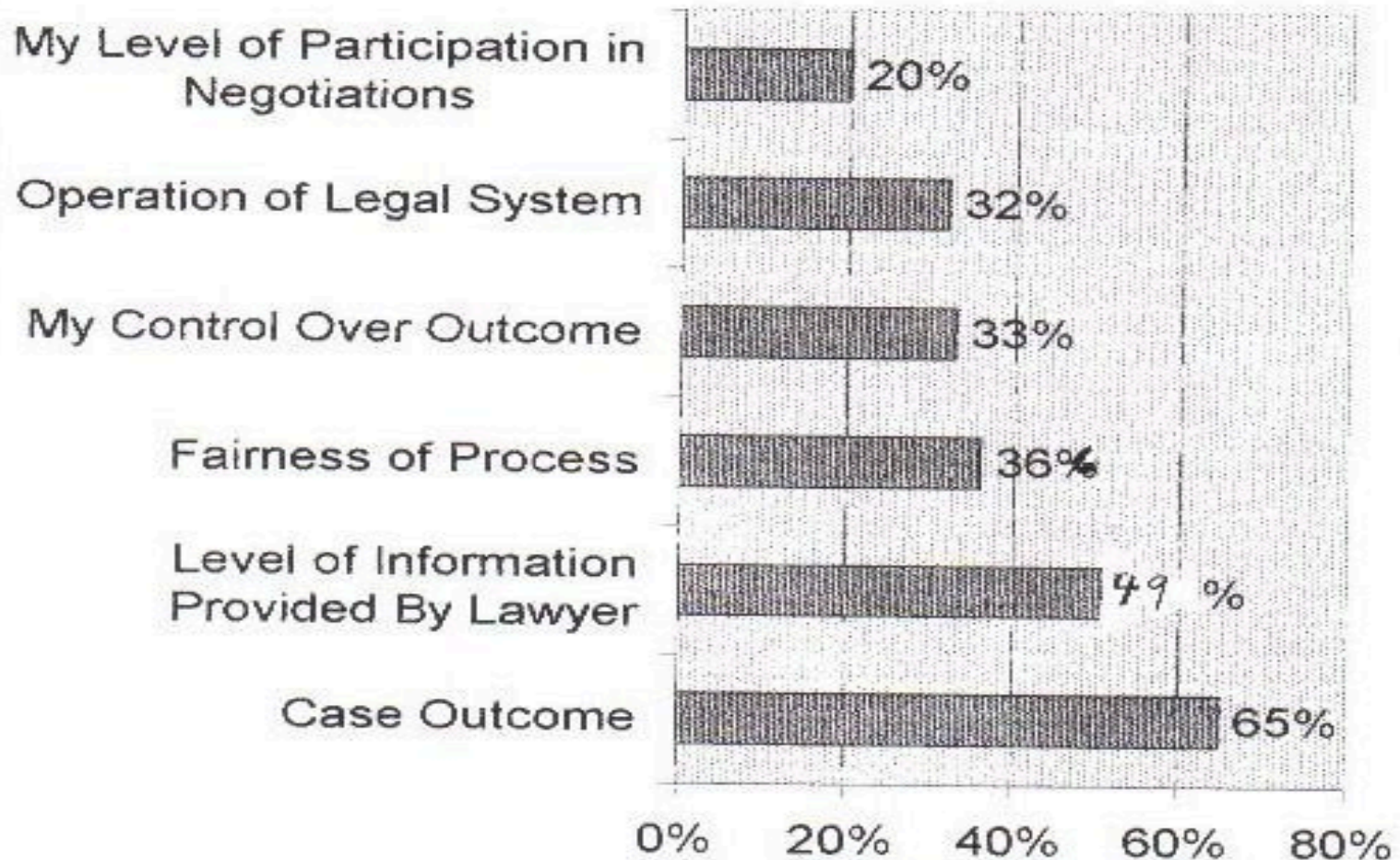
- Clients care **most** about the process
 - having their problems or disputes settled in a way that they view as fair
- second most important is achieving a fair settlement
- **least** important factor is the number of assets they end up winning.

PLAINTIFFS AND THE PROCESS OF LITIGATION:

An Analysis of the Perceptions of Plaintiffs Following their Experience of Litigation

Tania Matruglio (Civil Research Centre Australia 1994)

Satisfied With



LawCover Study

- Australia's largest indemnity insurer
 - Commissioned a Risk Management Project
 - Sample from over 2000 claims
 - Extensive & confidential interview with each lawyer
 - In most cases also interviewed the lawyer who defended the claim.
- Major Causes of Claims
 - *not* dissatisfaction with outcome
 - But instead the handling of the client relationship
 - Failure to
 - listen to the client
 - ask appropriate questions
 - explain relevant aspects of the matter

Australia: Client Satisfaction with Specialists' Services

- Widespread client satisfaction with the specialists' legal knowledge and skills
- Consistent evidence of client dissatisfaction with the provision of services

Different ideas of competence

- Practitioners and clients were selecting divergent indicators of performance
- Practitioners concentrated on knowledge and skills to deliver outcomes
- Clients expected both competence and positive results
- But were disappointed by the process of getting there

Clients complained about

- Inaccessibility
- Lack of communication
- Lack of empathy and understanding
- Lack of respect

Additional Training Recommended

- client focused rather than transaction focused
- client needs are not confined to attaining objective outcomes
- listen to clients more attentively
- diagnose their various levels of needs
- demonstrate empathy

Value of Experience for Client Communication

- Study by Prof. Avrom Sherr (U of London)
- 143 actual 1st interviews
 - 24 % trainee solicitors
 - 76% experienced solicitors
 - 70% at least 6 years
 - 23% more than 11 years
- High percentages of ineffective interviews
 - Experienced solicitors generally no better

Common Problems with All Solicitors

- 51% failed to get the client's agreement to advice or plan of action
- 76% failed to confirm with client the solicitor's understanding of the facts
- 85% failed to ask before ending whether there was anything else the client wanted to discuss

Where There **Were** Differences Between New and Experienced Solicitors

- Experienced solicitors
 - Used less legalese
 - Better at “filling in the gaps”
 - Rated their own interview performance higher than did trainee solicitors
- But the clients saw no difference in performance between trainees and experienced solicitors



Professional Identity Formation: Better Understanding the Nature of the Attorney-Client Relationship and the Importance and Characteristics of Great Client Service

Jerry Organ

Bakken Professor of Law and Co-Director of the
Holloran Center for Ethical Leadership in the Professions
University of St. Thomas School of Law (Minnesota)



Topics We Will Cover

1. What do we know about employer expectations about client service?
2. What do we know about law school emphasis on client service?
3. What is one way to engage students in better understanding the hallmarks of great client service?
4. What have we learned from these student engagements with clients and attorneys?



2020 Survey of Law Firm Competency Models

~2020 Survey of Law Firm Competency Expectations for Associate Development

- Collaborative effort to find out what law firms really focus on when evaluating the development of associates
- Developed through the summer and early fall of 2020 and was disseminated to NALP members in early November
- 50 law firms with written competency models responded
- Focused on competencies, on communication of competencies and on use of competency models.



2020 Survey of Law Firm Competency Models

~Aside from traditional “law school” competencies – 90% of competency models included:

- Responsibility/Reliability,
- Initiative,
- Attention to Detail,
- Teamwork/Collaboration
- **Responsiveness to Clients,**
- **Understand Client’s Business/Concerns**



NCBE – NextGen Bar Exam

~ Seven Foundational Skills

- Legal Research
- Legal Writing
- Issue Spotting and Analysis
- Investigation and Evaluation
- **Client Counseling and Advising**
- Negotiation and Dispute Resolution
- **Client Relationship and Management**



Challenges and Disconnects – LAW FIRMS

- ~ **Little indication that law firms use these competencies in hiring –**
- ~ Over one-third of firms (37.3%) indicated they do not use competency models in their recruiting and hiring process for attorneys at any level.
- ~ Respondents at 15.7% of the firms did not know whether competencies were integrated into hiring decisions.



Challenges and Disconnects – LAW SCHOOLS

- ~ These competencies show up very infrequently in law school learning outcomes.
- ~ Holloran Center Learning Outcomes Database tracks law school learning outcomes.
 - ~ <https://law.stthomas.edu/about/centers-institutes/holloran-center/learning-outcomes-database/>
- ~ Less than one-quarter of law schools have the following learning outcomes – Counseling (22%), Client Interviewing (18%), Client Centered (18%), Active Listening (17%).

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2000 Research Study

Law Society of England & Wales

Hillary Sommerlad & David Wall: Legally Aided Clients and Their Solicitors: Qualitative Perspectives on Quality and Legal Aid

- Interviewed 44 clients of 21 different solicitors in the north of England.

2000 Research Study

Law Society of England & Wales

- 50% said that they had previously used a solicitor whom they did not like.
- Those 50% were then asked an open-ended question:
 - “Why were you disappointed?”

I went to [my current solicitor]...

- because of her reputation and expertise
- she is a part-time registrar and has a big reputation as a specialist in this area
- but SHE JUST DOESN'T LISTEN.
- She listens for part of what I have to say, and then interrupts, saying something like
- 'OK, I've got the picture, what we'll do is ...'
- and she hasn't really got the picture, she's only got half the facts.

I think it's partly because ...

- she is so busy
- and also because she's simply not used to giving clients a voice.
- What's more she has actually made me frightened of expressing my views.
- I am about to change to another solicitor.

Listening

- I sent my former solicitor packing because SHE WOULDN'T LISTEN. That is absolutely fundamental; this was my case, only I knew the full circumstances."
- "They must be able to give you time. If solicitors haven't got enough time, they can't get enough out of you. You have to have time to be able to *tell your story.*"

Explaining

- “At my first meeting with [my current solicitor] ... I was impressed by his natural ability to talk about technical things with knowledge, but on a level that I could understand.
 - we actually talked and he explained in clear language
 - Other people just had a job to do, but [he] took time to clearly explain technical things.
 - He explained how the system works.”
- “She speaks of legal matters in a way that is knowledgeable and she explains it well.”
- “She communicates clearly. She puts things in layman’s terms.”

What Clients Want: 3 points toward cumulative quiz score

Due: 12 noon, Tuesday, February 6. Keep interview notes for reference during your firm meeting.

You will be completing a [Survey Monkey survey](#).

Find a person you know fairly well who is not a lawyer (such as a family member or neighbor) who has used a lawyer in the past and was dissatisfied in some respect. You are required to contact up to three people for this project. You may want to print this page to use to take notes during your interview.

If you have not been able to find a person who has been dissatisfied with a lawyer after three attempts, you may satisfy this assignment by completing Question 3 on the survey form so indicating.

If you find someone who has been dissatisfied in some respect with a lawyer in the past, ask simply: "Was there a particular reason why you were dissatisfied?" Record the following information which you will then report using the [on-line survey link](#) below.

Apparent age of person interviewed: ___ Younger than 20 ___ 20-30 ___ 31-40 ___ 41-50 ___ 51-60
___ 61-70 ___ Older than 70

Gender ___ Male ___ Female

Type of case: ___ Divorce ___ Other Family ___ Residential Sale/Purchase ___ Wills&Estates | ___
Traffic ___ Criminal (non-traffic) Personal Injury ___ Business ___

Other (describe):
_____)

Brief summary of explanation given for why the person was dissatisfied; use the person's own words as much as possible, indicated by quotation marks. (Please do not report here any information that could identify the person interviewed or the lawyer.)

When you have completed the interview, use the following link to report the results.

Link to on-line survey report: <https://www.surveymonkey.com/r/Survey-TCR24S>

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Serving Clients Well Course

- ~ St. Thomas Law emphasizes the importance of client service by requiring a first-year course at the start of the second semester called Serving Clients Well.
- ~ The course emphasizes relationship skills, including listening skills, cross-cultural competence, and delivering bad news.
- ~ The course also emphasizes professional development with a focus on growth mindset, time management, self-direction and integrity.
- ~ The course is one-credit – pass-rail – and is taught in four sections of forty by four full-time faculty.



Client Interview Assignment

- ~ Two important components of the learning experience involve interview projects – one with clients and one with an attorney.
- ~ Inspired by the work of Clark Cunningham, we started giving students a client interviewing assignment to complete over Winter Break.
- ~ Each student has to find a satisfied client and a dissatisfied client and have the clients identify whether they were satisfied or unsatisfied.
- ~ The students work with a confined glossary (over a dozen options) and list up to four reasons why their client was satisfied or dissatisfied.
- ~ They submit responses in a spreadsheet with all responses then compiled and analyzed.
- ~ We have been doing this for several years. With roughly 150-160 students we end up with over 700 reasons for satisfied clients and 500-600 for dissatisfied clients.



What do the Students Learn?

- ~ The following results are averages over the last four years:
- ~ Satisfied Clients are satisfied because of:
 - Competence/Effort (38%) (Competent, Knowledgeable, Attention to Detail, Efficient) and
 - Relationship Skills/Communications (34%)(Communicated Clearly, Responsive, Empathetic, Caring/Kind, Listened Well)
 - Phrased differently – Competence/Effort and/or Relationship Skills/Communications were mentioned by all satisfied respondents, but only slightly more than half of respondents mentioned Good Results or Fair Price.



What Do the Students Learn?

- ~ Dissatisfied Clients are dissatisfied because of:
 - Relationship Skills/Communications (39%) (Didn't Communicate Clearly, Didn't Listen, Didn't Return Calls, Arrogant, Not Empathetic, Dictated Outcome) and
 - Competence/Effort (26%) (Lack of Effort, Incompetence, Lack of Attention to Detail, Missed Deadlines)
 - Phrased differently – Relationships Skills/Communications were mentioned by nearly all dissatisfied respondents, but less than half mentioned Inadequate Results or Too Expensive.



Relationship Skills/Communication and Competence/Effort are the “Secret Sauce”

- ~ Being a successful attorney – that is, having satisfied clients – is pretty easy.
 - ~ Care about your client – listen to your client – respond to your client and demonstrate competence and you will have satisfied clients.
- ~ Being an unsuccessful attorney – having dissatisfied clients – also is pretty easy.
 - ~ Don’t care, don’t listen, be arrogant, don’t respond, don’t put forth effort and you will have dissatisfied clients.



Who Are You as a Lawyer?

- ~ To a large extent, these challenges for some attorneys arise from a problem with professional identity formation.
- ~ Think about the language used in the slides Clark presented. “Didn’t listen” “What we will do is
- ~ If lawyers are socialized to believe that they are the knowledge experts and the analytical wizards, they tend to adopt an arrogant, “I am the decision-maker” attitude.
- ~ This leaves clients dissatisfied because they feel unheard, not listened to, and not in control of how their matter will be resolved.



A Lawyer is . . . “A Problem-Solver”

- ~ For most of my career as a lawyer, and for the first part of my career as a teacher, I would have filled in the phrase “A Lawyer is” by saying **PROBLEM-SOLVER**.
- ~ But what are the problems with this construct?
- ~ I am the agent – the one solving the problem.
- ~ I well may be doing so without fully considering my client’s needs/wants/interests/goals.
- ~ I now say “A Lawyer is . . . Someone Who Helps Clients Solve Problems.”
- ~ If more lawyers thought this way more clients would be satisfied!!



Attorney Interview Project

- ~ After we finish with our class sessions, students are put in groups of three and assigned the responsibility to interview an attorney discussing themes raised in the course – including the nature of the attorney-client relationship and how the attorneys resolve conflicts with clients.
- ~ We do not identify a pool of “preferred” attorneys; students can pick anyone.
- ~ They then work together to write a memo summarizing the conversation during the interview in relation to the several themes set forth in the assignment.
- ~ (This is a great teamwork, project management, client communication exercise if you have them think about their partners as “clients”!)
- ~ With rare exception, the attorneys are “on message” – highlighting the importance of being client-centered and being responsive and focused on the client’s goals and interests.

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13 Clinical Law Review 1 (2006)

VALUING WHAT CLIENTS THINK: STANDARDIZED CLIENTS AND THE ASSESSMENT OF COMMUNICATIVE COMPETENCE

KAREN BARTON, CLARK D. CUNNINGHAM,
GREGORY TODD JONES & PAUL MAHARG*

An international and interdisciplinary team from the Glasgow Graduate School of Law (GGSL) and the Dundee Medical School - in Scotland - and the Georgia State University College of Law (GSU) - in the United States - has undertaken an ambitious project to change the way lawyer-client communication skills are taught and assessed.



Standardized or Simulated Patients in Medical Education

[Home](#) • [School of Medicine Home](#) • [Education](#) •

Human Simulation Education Center

Human Simulation Education Center

"We enhance human interaction."



The Human Simulation Education Center (HSEC) is used for simulated patient education, clinical skills education, and other educational experiences. It contains four suites, each of which contain a central debrief room with projection capability and 4 examination rooms equipped with examination table and standard clinic equipment.

Simulated patients are skilled professionals who are trained to present clinical scenarios in a standardized fashion to each learner, thus earning the title of “standardized patient.” They present the history in a certain manner, simulate abnormal physical findings, and provide feedback to learners about bedside manner, professionalism and communication skills.

Cameras and sound equipment in each exam room allow each experience to be recorded. Faculty can watch the patient interaction live via a web based program or can watch the recording after the fact. A software program provides ease of grading these encounters using a checklist and/or comments.

Osgoode Hall Law School York University, Toronto



SIMULATED CLIENTS:
INTERDISCIPLINARY LEARNING & TEACHING IN LEGAL EDUCATION

Virtual Workshop

Friday, April 29, 2022

Introduction to the Sim Client Initiative (SCI)

Programme

Presenters

Workshop resources

Osgoode Workshop Website



Name of assessor:

Name of student lawyer:

Score 0 - 5

The **greeting and introduction** by the student lawyer was appropriate

Comments

I felt the student **listened** to me

Comments

The student lawyer approach to **questioning** was helpful

Comments

The student lawyer accurately **summarised** my situation

Comments

I **understood** what the student lawyer was saying

Comments

I felt **comfortable** with the student lawyer

Comments

I would feel **confident** with the student lawyer dealing with my situation

Comments

If I had a **new legal problem**, I would come back to this student

Comments

Total 0 /40

Percentage 0.00 /4%

Osgoode Workshop Website

To date, SC pilots and programmes have involved the following institutions:

University of Strathclyde Law School (Glasgow, Scotland)	WS (Writers to the Signet) Society (Edinburgh, Scotland)
University of New Hampshire Law School (Concord, NH, USA)	The Australian National University College of Law (Canberra, Australian Capital Territory)
Northumbria University Law School (Newcastle, England)	Kwansei Gakuin University Law School (Osaka, Japan)
Solicitors Regulation Authority - Qualifying Lawyer Transfer Scheme (QLTS) + Solicitors Qualifying Examination (London, England)	Law Society of Ireland - Continuing Professional Development of Solicitors (Dublin, Ireland)
Hong Kong University Faculty of Law (Hong Kong)	National Centre for Skills in Social Care (London, England)
The Chinese University of Hong Kong Faculty of Law (Hong Kong)	Flinders Law School (Adelaide, South Australia)
Dept of Law, Letterkenny Institute of Technology (Donegal, Ireland)	Osgoode Hall Law School, Osgoode Professional Development (York University, Ontario, Canada)
Centre for Professional Legal Education (AB, MB, SK, NS, Canada)	Windsor Law School (Ontario, Canada)

Transitioning Simulated Client Interviews from Face-to-Face to Online

Paul Maharg & Angela Yenssen

13 European Journal of Law and
Technology No. 3 (2022)



Free Workshop on Improving Client Relationship Skills Saturday, 20 July 2024, University of Amsterdam Law Hub

Co-sponsored by

Amsterdam Centre on the Legal Professions and Access to Justice, University of Amsterdam
Osgoode Professional Development, Osgoode Hall Law School, York University (Canada)
National Institute for Teaching Ethics & Professionalism (USA)

- 12:30 – 12:40 Welcome
Prof. dr. drs. Iris van Domselaar
Director, Amsterdam Centre on the Legal Professions and Access to Justice
Tim Verheij
Coördinator, Onderwijs & Rechtspraak – Amsterdam Law Hub
- 12:40 – 13:00 Workshop overview
Prof. Clark D. Cunningham, Georgia State University College of Law
Director, National Institute for Teaching Ethics & Professionalism (USA)
- 13:00 – 13:20 Learning client relationship skills – what Dutch legal aid clinics do
- 13:20 – 13:50 Simulated Clients – theory and practice
Prof. Paul Maharg, Osgoode Professional Development
- 13:50 – 14:50 Demonstration and discussion of online simulated client meeting
- 14:50 – 15:10 Break-out group discussion of possible applications of simulated client methodology in different settings
- 15:10 – 15:30 Reports from break-out groups and possible next steps

Resources: www.paulmaharg.com/2024/07/08/sim-client-workshop-programme-and-resources/

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