

Taking the War Out of Our Words: The Art of Powerful Non-Defensive Communication by Sharon Ellison

Reviewed by Angela Evans

During my first week as an Assistant District Attorney, the Chief Deputy told me I was "going to catch more bees with honey than with vinegar." Following this instruction of how I should communicate with criminal defense attorneys was not as easy as it initially sounded. The ethical duty to zealously advocate for your client while maintaining professionalism and civility in your communications can be a highly sensitive balance. Luckily, "Taking the War Out of Our Words: The Art of Powerful Non-Defensive Communication" offers a process through which lawyers can learn to achieve this balance with great success.

Sharon Ellison's "Taking the War Out of Our Words: The Art of Powerful Non-Defensive Communication" transforms the valuable lesson that you catch more bees with honey than with vinegar into a powerful, practical, and useful tool. Its foundation is an observation that attorneys know far too well; human communication is a power struggle, especially when a conflict is involved. To help us communicate with more clarity, confidence, and power, regardless of whether others cooperate or not, this book provides readers a process through which they may ask disarming questions that prompt others to drop their defenses, provide vital information, and make statements that are less adversarial but set firm boundaries and clear expectations.

For instance, Ellison proffers that instead of using statements as tools for clarity and understanding, we often use them to control other people's opinions and feelings. She notes that the Aristotelian logic of stating one's opinion as fact when trying to persuade someone to agree with us is misleading and polarizing. Ellison's process would have the communicator try to persuade by trying to make the other person walk away thinking that whatever she wanted him to do was actually his own idea.

For example, a lawyer using Ellison's model should not say, "Because it is undisputed that the debtor failed to make his January mortgage payment, the court must grant relief from the automatic stay." Rather, proper non-defensive communication would re-

quire the lawyer to state "Section 362(d)(2) requires that relief from the automatic stay be granted upon a showing of cause. We believe that under the facts at issue where the debtor failed to make his January mortgage payment, and there is no equity in the home, we have made such a showing." In the second statement the truth is liberated as there is no overstatement of the law. Also, the second statement is very careful not to put the Judge on the defensive by telling the Judge what he must do. Rather, it leaves the matter respectfully in the Judge's discretion, while providing the Judge an accurate statement of the law and the relevant facts, as opposed to opinions stated as facts, and makes his conclusion feel as if it is wholly his own idea.

Ellison writes, "when we respond with an inaccurate or limited understanding of another's meaning, we are often, without even knowing it, carrying on two parallel conversations; the twain never meet. Our erroneous assumptions create much of the drama in our miscommunication." Litigation would be expedited and much more pleasant if every lawyer made it a point to ensure the accuracy of their understanding of what opposing counsel was communicating before taking action. "Taking the War Out of Our Words" forces you to ponder these types of simple truths and gives you an abundance of examples to learn from and tools to utilize. Everyone should read this book. ■



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