

# Experiments in Listening

Mark Weisberg and Jean Koh Peters

Attention: deep listening. People are dying in spirit for lack of it. In academic culture most listening is critical listening. We tend to pay attention only long enough to develop a counterargument; we critique the student's or the colleague's ideas; we mentally grade and pigeonhole each other. In society at large, people often listen with an agenda, to sell or petition or seduce. Seldom is there a deep, openhearted, unjudging reception of the other. And so we all talk louder and more stridently and with a terrible desperation. By contrast, if someone truly listens to me, my spirit begins to expand.

*-Mary Rose O'Reilley, Radical Presence<sup>1</sup>*

Critical listening. An integral part of critical thinking. An essential component of academic life. What we expect from ourselves, and what we hope to encourage in our students. Bred in our bones.

Yet it's not the only form of listening. And it may not always be the most useful form. Consistently listening with our critical mind can be bad for the listener, possibly worse for the one to whom we're listening. If we're too busy formulating our responses, we may miss what our interlocutor is saying. And we may put our interlocutor on the defensive. Worse, feeling judged, she may shut down entirely, become dispirited, learn nothing. That's certainly not what we want for our students, nor is it what we want for ourselves.

If the quality of our listening can affect how and what our students learn and can affect our interpersonal relationships, including those with our colleagues, as teachers and clinicians, we can benefit from exploring how we listen in our

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1. Mary R. O'Reilley, *Radical Presence: Teaching as Contemplative Practice* 19 (Portsmouth, N.H., 1998).

academic and professional lives. This is especially true because we spend so much of our academic, professional, and personal lives listening or being listened to. As one commentator reports, “(r)esearch demonstrates that 70 percent of our waking time is spent in participating in some form of communication. Of that time, 11 percent is spent writing, 15 percent reading, 32 percent talking, and 42 to 57 percent listening.”<sup>2</sup> But as she also notes, although listening may be “the type of communication we engage in the most and learn first, it requires a skill we are taught the least.”<sup>3</sup>

How *do* we listen in our classrooms and with our colleagues? In those contexts, are we consistently judgmental, always in our critic mind? Does that cause some of our students, even some of our colleagues, to shut down, to be unable to learn effectively?<sup>4</sup> Experiencing us as judgmental, will our students adopt that model, and if so, will it make them less effective lawyers? If we’re not always listening in our critic mind, how else do we listen, and how does that affect our students and colleagues? More generally, what is the relationship between how we listen or are listened to and how we and others learn?

In this essay we explore these questions to invite you to reflect on your experiences of listening and to look with fresh eyes at how you might use those experiences to improve how you listen and are listened to. We think doing so will make us more effective teachers and learners.

We argue that a skillful listener will not be simply a critical listener but will have available a variety of listening modes and will carefully choose which mode is appropriate for the setting. She will use a wide repertoire of skills and make subtle, sophisticated choices about listening in each context; at any moment, she will be conscious of distractions and obstacles and will strategize to eliminate impediments to optimal listening. We explore what those modes might be and how we might use them to facilitate learning and effective lawyering.

To help us do so, we include four sets of exercises, designed to appeal to differing styles of learning. Each takes its own form. Some are prompts for reflecting that invite quick brainstorming or fast, exploratory freewriting; we hope these will help you access the tacit knowledge that lies under the surface of your consciousness.<sup>5</sup> Other exercises are more analytical and ask

2. Pamela J. Cooper, *Communication for The Classroom Teacher* 38 (5th ed., Scottsdale, Ariz., 1995). The International Learning Association offers on its website other statistics related to listening, available at <[http://www.listen.org/Templates/fact\\_time\\_spent.htm#time](http://www.listen.org/Templates/fact_time_spent.htm#time)> (last visited Dec. 4, 2007), and a list of interdisciplinary resources on listening, available at <[http://www.listen.org/Templates/fact\\_ref\\_pi.htm](http://www.listen.org/Templates/fact_ref_pi.htm)> (last visited Dec. 4, 2007).
3. Cooper, *Communication*, *supra* note 2.
4. For an egregious example, see Stephen L. Carter, *The Emperor of Ocean Park* 111-14 (New York, 2002).
5. “In short, to use Polanyi’s phrase, we know more tacitly than we do focally. . . .” Peter Elbow, *Embracing Contraries: Explorations in Learning and Teaching* 54, 56 (Oxford, 1986) (Ch. 3:

for sustained attention. So while one exercise might work for you, another might not. As you read, feel free to work with those exercises that seem particularly interesting, challenging, or intriguing. Whatever exercises you choose, we hope that working with them might lead you to reflect on the following questions about listening.

1. What is the role of listening in your teaching? What is the balance of listening and speaking in your work life? In your life as a whole?

2. What are the different ways in which you listen? Do you listen differently in your professional life than in other environments? Do you listen differently at work than you do at home?

3. When listening is called for, what would you describe as essential characteristics of high quality listening? And how do you know when it has occurred?

4. Do you tend to listen skeptically or receptively? Do you find yourself typically wanting to refute or support what you hear? Do you interrupt? When that happens, what's going through your mind?

5. How often do you listen with hopes of transforming the speaker or her experience by the end of the conversation? How much is your listening designed to inspire change?

6. How often do you have enough time to think between listening and responding? Do you regularly need more time than you feel is available?

7. What concrete circumstances or factors enhance your listening? By contrast, what concrete circumstances or factors detract from your listening?

8. Do you think that when listening, you're performing a message? For example, if you regularly give advice when you listen, does doing so tend to perform the message that people who come to you need help? Correspondingly, do you find yourself trying to prove something with your listening? In the way you listen and respond, do you find yourself trying to make gestures about your own identity? Is the advice-giver one who wants to be known as a helper? Does the active listener want to be known as caring? The doubter as a critical thinker?

9. What are your usual experiences as a person in being listened to? In general, do you feel that the people around you listen to you well? Is this consistent across work and personal lines? If you do not feel that people usually listen to you well, what specifically would you change, if you could?

10. What would change if everyone at work or home listened slightly better? As a person being listened to, what would you most want from your interlocutors?

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We offer four modes for exploring your experiences of listening. Our goal is to help you identify your concerns and goals for your listening and to offer

strategies for achieving those goals, as well as to help you become more aware of how you listen, about the choices you're making in your listening, and to ask whether you want to change any of your current practices.

Two of our exploratory modes are retrospective, two prospective. The first retrospective method offers a series of exercises designed to ask analytical, left-brain questions about how you listen. These exercises attempt to pluck off of the top of your consciousness what your interests and concerns about listening are as you already understand them. The second, more right-brain retrospective technique offers a series of exercises to explore critical incidents from your past that may yield rich material to understand yourself better as a listener. These require you to look in depth at moments in your listening life that stand out as important and to try to look at them from several differing perspectives. Identifying your listening patterns and proclivities and comparing them to the range of possible listening styles allows you to gauge whether your current patterns are consistently optimal in your teaching and professional lives.

In addition to these two retrospective ways, we offer two prospective ways to think about your listening. The first prospective series of exercises focuses on how to collect new information about listening in your daily life; examples are keeping a listening log and examining how you listen on a particular day. Finally, the second prospective series of exercises invites experiments in listening. Consciously altering your patterns and habits of listening contributes to this process: first, by creating new and slightly different experiences from which to analyze your values and goals in listening, and second, by offering new listening practices to achieve those goals that may be new to you. Taken together, these approaches offer you several different perspectives for taking a fresh look at something you have done every day of your life.

### **Looking Retrospectively at Your Experiences of Listening**

This section offers several strategies to start exploring your storehouse of listening experiences. The first part offers analytical or general questions about your listening as a whole, while the second part suggests that you identify specific critical incidents from your own experience and analyze them in depth.

#### *Ask Analytical or General Questions about Your Listening*

See if any of these questions offer a promising starting point for reflecting on your listening experiences.

#### **Ten Free Writing/Brainstorming Prompts**

The following prompts are designed as jumping-off points for free writing<sup>6</sup> or journaling, but can also be used for non-written reflection. We recommend

6. For ideas about free writing, consider the advice of Natalie Goldberg, a poet, novelist, and writing teacher. See Natalie Goldberg, *Wild Mind: Living the Writer's Life* 4 (New York, 1990).

free writing because it allows you to memorialize your reflection process, which may be useful as you continue to reflect on your listening over time.

1. *Think about why this essay has caught your attention.* Journal about that. Journal about the associations you make with the topic.

2. *How would you rate yourself as a listener on a 1-10 scale?* As you begin this inquiry, how would you evaluate yourself as a listener? Write down the characteristics that you value most about a listener. Then rate yourself on each of these characteristics.

3. *When do you enjoy listening?* Check all that apply. Add additional settings that are important to you.

I like:

- a. Being read to—as a child? as an adult?
- b. Hearing a story
- c. Hearing lectures
- d. Listening to books on tape
- e. Hearing the news on the radio
- f. Listening to students in class
- g. Listening to students in meetings in your office
- h. Listening to colleagues
- i. Listening to family members
- j. Other—list them

4. *How important is it to you to converse with good listeners?* How often do you do that?

5. *Who taught you how to listen?* When did that happen? Have your listening habits changed since then?

6. *What is the balance in your life between listening and talking, input and output?* As a teacher? As a colleague? As a spouse? A parent? A friend?

7. *Answer this question ten times:*

*I would be a better listener if \_\_\_\_\_.*

8. *Look at the ten questions in the introduction.* Attempt to answer any or all of the questions directly. Don't worry about partial answers. Use these answers as a starting point for your analysis. Flag any questions that particularly trouble or intrigue you. You may decide to return to them later.

9. *Brainstorm about the kinds of non-academic listening that you find yourself doing during the day.* Note those that contrast sharply with others. For instance, listening to the waitress give the specials at dinner for some people commands high-intensity attention for a short period. By contrast, listening or being available to a teenage child may require a long period in which a person is accessible and relaxed, but not forcing interaction. Brainstorm about as many kinds of listening as you find yourself doing during the day. How do you listen when the radio is on in the

background in an office? How do you listen to conversations overheard at the bank? How do you listen to colleagues at the faculty mailboxes? Brainstorm as many different contexts of listening as possible without analyzing any of them.

10. *Do the same for your academic and professional life.* Are there multiple levels of listening at work? How many different kinds of listening do you engage in during your work day? Are your listening styles more varied at work or outside of work?

### Explore Your Listening on a Doubting and Believing Spectrum

One helpful way to examine one's listening employs a doubting and believing spectrum derived from an essay by Peter Elbow.<sup>7</sup> Elbow proposes that "we can improve our understanding of careful thinking or reasoned inquiry (and therefore improve our practice) if we see it as involving two central ingredients: what I am calling methodological doubt and methodological belief."<sup>8</sup>

Elbow suggests, rightly, that academic culture is a primarily doubting culture. We pride ourselves on our ability to criticize an argument, and we want our students to develop that skill.

Elbow argues that with our intellectual roots located in Socratic argument and Cartesian skepticism, it's not surprising that we understand careful thinking as equivalent to critical thinking, that we privilege challenging a claim over "the ability to enter into it and temporarily assent."<sup>9</sup> And as Elbow suggests, "[our] emphasis on learning to be critical helps explain the tendency toward critical warfare in the intellectual and academic world—the fact that intellectuals often find it surprisingly difficult simply to hear and understand positions they disagree with."<sup>10</sup>

Ironically, as this passage indicates, rather than helping us develop our thinking, doubting often "caters too comfortably to our natural impulse to protect and retain the views we already hold." We know this from debates; how often does a debate or ferocious argument lead to new insights or lead anyone to change their mind?

Yet we need new insights, want to be open to differing perspectives, and think that becoming educated means making up and changing our minds. For that, Elbow argues, we also need methodological belief:<sup>11</sup> "the...systematic,

7. Peter Elbow, *Embracing Contraries*, *supra* note 5, at 253, 258 (Ch. 12: Methodological Doubting and Believing: Contraries in Inquiry). Peter Elbow is a writing teacher and an extraordinarily perceptive essayist on topics related to teaching and learning.

8. *Id.* at 255.

9. *Id.* at 258.

10. *Id.*

11. Since doubting is such a fixture in academic culture, like Elbow, we're focusing here on believing. But also like Elbow, for effective listening, we think we need both. As we suggest, which we use will be context dependent.

disciplined, and conscious attempt to *believe* everything, no matter how unlikely or repellent it might seem—to find virtues or strengths we might otherwise miss.”<sup>12</sup> It is a process in which “we are not trying to construct or defend an argument, but rather to transmit an experience or enlarge a vision.”<sup>13</sup> Methodological belief “forc[es] us genuinely to enter into unfamiliar or threatening ideas instead of just arguing against them without experiencing them or feeling their force. It thus carries us *further* in our developmental journey away from mere credulity.”<sup>14</sup> Rather than encourage us to accept unquestioningly, to embrace false beliefs, believing helps us examine our beliefs and, consequently, become better able to assess what knowledge is trustworthy. As Elbow puts it, “A belief is a lens and one of the best ways to test it is to look through it.”<sup>15</sup>

This experiment in listening proposes to adopt Elbow’s poles of methodological doubt and methodological belief as a spectrum that we call the doubting/believing spectrum. The spectrum works on two levels. One is as an analytical tool through which you can examine a critical incident of listening.<sup>16</sup> For example, if, in looking at an experience of listening, you found that you listened with Elbow’s components of methodological belief, “the disciplined procedure of not just listening but actually trying to believe any view or hypothesis that any participant wants to advance,”<sup>17</sup> you would situate yourself at the believing end of the spectrum. Looking retrospectively, a reflective listener would decide he was at or near pure belief when he concludes that, when he listened, he tended to take everything related by the speaker as true and, without challenging the speaker, sincerely tried to pursue the conversation as if everything were completely true.

On the other end of the spectrum, a reflective listener looking at a critical incident of listening would conclude that she listened with pure doubt if she questioned every statement, every assumption, every inference, and every implication of the speaker’s words. If we conclude after looking at a previous incident of listening that we did so solely intending to refute, to reconstruct, and to contradict, we will have found ourselves on the side of pure doubt.

Here are some examples of pure belief, suggested by students and teachers. You can supply others from your own experience:

- sympathetic conversations with a grandparent
- listening on a crisis hotline
- listening by a therapist

12. *Id.* at 257.

13. *Id.* at 261.

14. *Id.* at 263.

15. *Id.* at 283.

16. The second level involves making doubting and believing into a game. See our discussion below of text on playing the doubting/believing game.

17. Elbow, *Embracing Contraries*, *supra* note 5, at 260.



- early lawyer/client or doctor/patient interviews
- a student attempting to learn a brand new theory or material from a teacher
- a friend listening to another friend in a time of utter distress
- listening to an expert consultant like an accountant, financial planner, and the like.

And examples of pure doubt:

- teaching law through the Socratic method
- teachers listening to colleagues at a workshop on a paper in progress
- listening to a politician you do not trust
- listening to someone with a credibility problem
- arguing the negative side in a debate tournament
- when a friend asks you to be a reality tester and find everything wrong with something she's thinking or have written
- cross-examining a witness who is doing you harm.

For this exercise, think about a few specific past experiences of listening, and, for each one, try to locate yourself on the doubting and believing spectrum. It may be helpful to add this analysis to the next exercise.

### *Explore Critical Incidents from the Past*

#### High Points and Low Points as a Listener

Identify a time when you felt you listened to someone in a way that precisely matched what was needed in the circumstances, a time when you felt you were a “good” listener. Journal about the incident for five minutes. Invite detail: What were the moments in the listening that stood out? What were the feelings you had that confirmed your sense that the enterprise had been successful? What reactions did you receive that led you to believe that this was a successful experience of listening?

Pick another occasion when you were disappointed in your listening: A moment when you might have told yourself, “I need to be a better listener.” Observe the experience and describe it. Be aware of judgments you make about yourself as you describe the experience. Observe the feelings, the feedback, the moments in the conversation that remain with you.

After you have journaled about them, compare the two experiences, alone or with a friend. Try to identify what's common to them. Identify how they differ. What do they tell you about the strengths and weaknesses of your listening?

#### Profile of the Three Best Listeners I Know

Identify three people on whom you regularly rely to listen well to you, or three people in your life or in your past who you identify as good listeners. Take time to describe each in detail. For now, focus on describing, not on identifying themes. Try to be as detailed or nuanced as possible.



*High Points and Low Points as a Person Being Listened To*

Describe a time when you did not feel listened to. Describe a time when you were trying to say something and it was not heard or was misheard in way that was important to you. Describe the experience in detail. Note the emotions that come up and observe and describe those.

Now describe a moment when you felt listened to. Again, describe the context, describe the person, and describe the setting. Describe all the details that come to you. If feelings arise, observe and describe them.

Alone or in conversation with another, search for common and contrasting themes in your two experiences; brainstorm about what you sought in those situations as a person who needed to be listened to deeply. What did you want from your listener? What kind of listening? What characteristics? What affect?

**Looking Prospectively: Analyzing Your Listening For New Insights**

The second sets of exercises focus on using your current and future experiences of listening as new data in the process of trying to understand better your goals for listening and, in light of those goals, to refine how you listen. The first set focuses on developing effective techniques for collecting data and looking at your current behavior; the second focuses on experiments you can conduct to help you alter your listening patterns over time.

The following exercises are examples of changes in listening behavior that a teacher could experiment with on any day, in any conversation, for any time.<sup>18</sup> At the end of the article, we describe an activity that incorporates many of these experiments in listening into a one hour exercise that can be performed with a group. While these exercises offer examples of prompts that some people have found helpful for generating new ideas about their listening, they are the tip of the iceberg. We hope that you will be naturally drawn to design exercises that work well for you. All the exercises share one function: to focus our awareness on behaviors that we often undertake unconsciously and to encourage us consciously to attempt to shift the dynamics in those behaviors.

*Collect New Data*

Some reflective teachers may find it useful to start developing habits for regularly collecting new data about their listening. Initially, it can be challenging to figure out how to observe a behavior like listening, which we do constantly, and often unconsciously. Indeed, the idea of these exercises is to increase awareness of listening at the time, or close to the time, when it happens and record what actually happens.

How each of us collects data should connect to long established daily habits. Those who keep daily calendars may wish to jot notes there; those

18. For an example of one teacher's change in listening behavior, see Mark Weisberg. *Discerning the Gift, Change: The Magazine of Higher Learning*, May/June, 1999, at 28, *reprinted in part in Learning from Change: Landmarks in Teaching and Learning in Higher Education from Change Magazine 1969-1999* (Deborah DeZure ed., Sterling, Va., 2000).

who use Palms and other PDAs might wish to add notes to calendar items for meetings. Those who regularly journal could write notes in diaries. One could carry around a memo pad for this purpose. A portable Dictaphone might be helpful for those who prefer to record their observations orally.

However you keep your data, here are four suggestions for the kind of data to collect.

1. *Keep a Listening Log*—record as you go throughout the day.
2. *Observe your listening during an eight-hour day*—identify a propitious workday for paying close attention to the listening you do, and make a plan for recording your observations.
3. *Observe yourself listening for a twenty-four hour period*—identify a propitious day with work and non-work listening planned, and make a plan for recording your observations.
4. *Review the week and note key points of listening in the days just past*—identify a week for paying attention to your listening, and set a time (a half hour or so) for reviewing the week with a special eye for listening. Look for trends, critical incidents, rich moments, and moments of intensity in your listening, and think about them again.

Here is one example of an insight in listening practice and the changes that resulted from a planned observation of one's listening patterns. Early in writing this article, Jean Koh Peters observed her listening over a week and had one major insight. She found that when listening to stories, descriptions of events, or other presentations of ideas, she often experienced a "listening gap" after about two or three minutes. The gap began when something her interlocutor said sparked an idea or reminded her of something, and her mind would follow that idea for about thirty seconds to a minute, until she realized that she had lost the speaker's thread. When she returned to listening, she was concerned that she had missed key data or concerns and found herself trying to reconstruct what she had missed without having to ask the speaker to repeat it. This reconstruction effort detracted from her renewed listening.

After noticing this trend, Peters decided to change three things about her listening. First, as a conversation begins, she often informs students, colleagues, and other frequent interlocutors with whom she works closely about the gap and asks them to be patient with her and to understand that her requests to repeat what they have just said has to do with her lapse, and not the clarity of their speech. Second, she tries conscious ways to stay listening, paying specific attention at the two or three minute mark, keeping eye contact with her interlocutors, avoiding other distractions (turning away from the computer, turning off the phone's ringer, or removing papers relating to other concerns from her desk during the meeting). Third, with people with whom she does not regularly work, she has developed a habit of asking for the repetition and apologizing for the gap, rather than trying to hide the lapse.

*Experiment With Your Listening*

## Use the Doubting-Believing Spectrum: Two Variations

## Play the Doubting/Believing Game

Prospectively, you can make doubting and believing into a game, a serious game, in which the two extreme positions become methodological: “artificial, systematic, and disciplined uses of the mind.”<sup>19</sup> After looking at critical incidents of his doubting and believing, a reflective teacher may wish to play some version of this game. If a teacher concludes that he has been overly skeptical or tends in certain contexts to be more doubting than he wishes, or that his students regularly respond to each other skeptically as doubters, the teacher can consciously experiment with the believing game: taking to be true everything that he and the class hears from someone proposing a thesis or an interpretation and encouraging the ideas that students propose to be expanded and taken to their logical conclusions. Similarly, the teacher can expand the believing game to encompass everything said during a discussion. By contrast, a teacher who decides that she and/or her class have been overly supportive if ideas that needed stricter scrutiny can decide to play the doubting game with ideas she feels have been insufficiently probed.

The key to applying prospectively the doubting and believing spectrum is making conscious choices about how to listen. You can make these choices in a classroom for (or with) students, and you can make them in any conversation at any time, based on the speaker’s needs at that time. For instance, imagine at a faculty seminar asking a person presenting a paper whether she would like her audience to listen to her in a doubting or believing spirit. How would each of those strategies affect the texture and dynamic of the discussion? We know that early in her writing process, a writer may decide she needs the nurture and comfort of a creative, brainstorming, and hence believing, audience.<sup>20</sup> However, near the end of that process, when a writer is closer to submitting her piece for publication, she may decide she wants it scrutinized by a rigorously strict and skeptical doubting crowd. That diverse set of needs also might be true for students trying to work out their position on an issue or solve a perplexing problem. That suggests that in working with or responding to writers or thinkers, we have to be active at both ends of the doubting/believing spectrum. Consequently, to help us become more flexible in adjusting to what our students and interlocutors might need, it would be useful for us to reflect on whether our conversations at work typically tend to land us on one end of the spectrum and then to experiment with conversations that work from the opposite end.

19. Elbow, *Embracing Contraries*, *supra* note 5, at 258.

20. “[M]uch bad writing comes from trying to write to doubters—trying to blow a trumpet to an audience of lemon-suckers. The writer writes nervously, defensively, continually trying to fend off objections, and as a result her writing is often tangled. The main ideas are characteristically muffled and insulated.” *Id.* at 287.

While Elbow thinks academic life is heavily focused on doubting and consequently emphasizes how much we need believing, he also stresses that to be complete thinkers and writers, for our thinking to be trustworthy, we need both doubting and believing. He recommends that we aim for balance between them. He stresses that we should understand doubting and believing as processes that are “methodological: artificial, systematic, and disciplined uses of the mind. As methods they help us see what we would miss if we only used our minds naturally or spontaneously.”<sup>21</sup>

The doubting and believing spectrum can be useful to listening in a clinical legal context, when new law students and supervisors discuss approaches to client interviewing. For example, early in a clinical experience, when law students may have very little experience with clients, they often look for advice about how to conduct their early interviews. One piece of advice Peters regularly offers her students is to initially approach their clients in a believing mode. Initial interviews alternate between gathering facts and building rapport; playing the believing game allows a new lawyer to establish rapport, to take seriously her client’s felt and presented views, and before asking critical or clarifying questions to hear and understand as a whole a client’s story and his perspective as he has seen fit to present it.

However, as their relationship progresses, it would be inappropriate for a lawyer to maintain a purely believing mode in her listening. As she begins to amass extrinsic evidence, which may contradict or make her skeptical about her client’s position, the lawyer and her client must collaborate, and the client must be confronted with concerns about his case. In addition, the client must be prepared for skeptical adversaries, skeptical fact-finders and decision makers, and the range of doubt they will encounter throughout. In fact, we would expect that a lawyer who failed to make her client aware of the doubting to come would have neglected an important dimension of her job.

Consequently, as a clinical teacher, Peters suggests to her students that, as they listen to their client and prepare for the presentation of her case, they regularly think about the balance between doubting and believing that they have exercised in their interactions with that client and, at any point in any interview, decide consciously where they want to situate themselves on the doubting and believing spectrum. If a student or lawyer also has looked at critical incidents from his past, he may conclude that as a default, he feels more comfortable when he has situated his listening at particular places on the doubting and believing spectrum. This will remind him to make sure that he spends time with the client on the parts of the spectrum that do not necessarily come naturally to him. For example, Peters, who notes that she naturally tends to the believing end of the spectrum with clients and students, regularly engages in methodological doubt, with the client’s agreement and participation, by offering moots and simulated administrative interviews and cross-examinations so that the client can experience the kind of doubt and skepticism she might face before a judge

21. *Id.* at 258.

or administrative officer. In general, she encourages law students beginning practice to make sure they balance their belief and doubt with clients over the course of the law student/client relationship.

### Try a Lineup

Lineups encourage people to commit to a position and to do it with their bodies. They're particularly effective when working with a controversial topic, say, a story that raises questions about a lawyer's professionalism, or a case like *Palsgraf* with good arguments on either side, or with any question or problem on which opinions or experiences are likely to differ across a broad spectrum. They can be used on their own, at the beginning or end of a discussion, but Mark Weisberg has found them even more useful when combined with a "three minutes each way" discussion. Here's an example.

Let's say a class is discussing a story such as Louis Auchincloss's "Equitable Awards,"<sup>22</sup> in which the family lawyer is likely to seem highly professional to some, extremely unprofessional to others. The teacher will have placed a long strip of masking tape in a line on the floor, identifying one end as "professional" and the other end as "unprofessional." He then asks people to find their place on that line that represents their position on whether that lawyer is professional or unprofessional. After people find their places on the line, he invites everyone to find someone standing at a different place from them. Each person, in turn, has three minutes to tell his interlocutor why he's chosen his particular spot. The listener's job is just that: to listen. No interrupting, no challenging, no criticizing and, on the other hand, no affirming, no nodding: just listening. In a particularly apt and provocative phrase, Mary Rose O'Reilly calls this "listening like a cow."<sup>23</sup>

After three minutes and a prompt from the teacher, the pairs switch roles. If there is time after that, the teacher might invite comments about the experience: what they learned, how it felt.

What makes lineups educationally useful? Just having people move and express their commitment physically can be a powerful experience, and for most people it's fun. Like writing, physically expressing an opinion commits you to it more strongly than simply thinking it; when people are committed to a position, they're much more likely to be engaged when they discuss it. Seeing how people disperse themselves on a line can be intriguing, and then

22. Louis Auchincloss, *Equitable Awards*, in *Narcissa and Other Fables* 52 (Boston, 1983).

23. What I'm trying to construct here is a theory of attention that depends little on therapeutic skill and formal training: listening like a cow. Those of us who grew up in the country know that cows are good listeners. . . . Cows cock their big brown eyes and twitch their ears when you talk. This is a great antidote to the critical listening that goes on in academia, where we listen for the mistake, the flaw in the argument. Cows, by contrast, manage at least the appearance of deep, openhearted attention.

If you are listening, if you are turning your big brown or blue eyes on somebody and twitching your ears at them, you are earning your silage. You are listening people into existence. You are saving lives. You are producing Grade A.

O'Reilly, *Radical Presence*, *supra* note 1, at 29.

being asked to listen actively to someone who's located herself at a different place from you can open your mind to a differing perspective. You might even change your mind.<sup>24</sup>

We probably all agree that listening is an exceptionally important skill for teachers and students, but we think most of us and most of our students don't practice it very often. When someone else is talking, we either tune out or are so busy formulating our own responses to what she's saying that we don't listen to her. Our heads are too full of noise to be able to hear. By providing a structure, the three minutes each way strategy encourages us to listen carefully and actively to our conversational partners, and the experience of doing so may prompt us to transform how we listen and even how we think.

#### *Wait Five Seconds before Responding*

Have you ever found yourself aggravated in conversations because your interlocutor continually interrupts you, never letting you complete your sentence, or responds so quickly you're certain he hasn't listened to what you're saying? Conversely, when someone speaks to you, have you ever found yourself so busy formulating responses to what you're hearing that later you realize you haven't heard her? If so, the following story might interest you.

At a professors' reflection retreat, people spent considerable time working in small groups.<sup>25</sup> Each group set explicit ground rules to help guide their conversations.<sup>26</sup> During the ground rules exercise, one participant noted that she tended to wait a few seconds after any comment in any discussion and, as a result, often felt left out of discussions because what she might have wanted to say had been preempted by those who responded faster. She described that process and her subsequent attempt to keep track of the comment and insert it at a later, still appropriate point, which led her to become increasingly involved in an internal process of storing, sorting, and eventually eliminating comments that she felt unable to make or prevented from making. The overall effect was eventually to absent herself from those conversations, which sped along without her. Here's what she reported.

I'm not an introvert, and I'm not shy. I don't hesitate to voice my opinion. But when I work in a small group, I usually don't get to talk, because I HATE to interrupt—it feels disrespectful. My sense of the rhythm of

24. Compare Elbow on the effects of playing the believing game. "Something real and weighty goes on when we play the believing game. The process often manages to change, genuinely if temporarily, the way we see and understand something. We literally 'change our mind.' That is, if we come to experience the full force of several competing views on a topic, to feel what it is like to believe each of those views, our final position is apt to change." Elbow, *Embracing Contraries*, *supra* note 5, at 270.
25. Gonzaga University School of Law, *Reflecting on Our Teaching 2003: Tenth Annual Conference of the Institute for Law School Teaching* (Spokane, Wash., 2003).
26. For a useful model, see Stephen D. Brookfield, *Becoming a Critically Reflective Teacher* 143-45 (San Francisco, 1995) ("Creating Ground Rules for Critical Conversation").



conversation is different from others in my culture. If I wait what seems to me a respectful time after someone is done speaking, someone else has already started. That means if it's important to me to speak, I have to decide that I'm going to pounce on the end of someone else's speaking. To make that decision requires a conscious choice to disregard another's speaking space. That's a hard choice, and I have to steel myself for it. It usually takes some irritation to get me to that point, so when I do speak I sound (and sometimes am) angry.

After listening to her experience, the group discussed how they might avoid this happening in their discussions, and they instituted the "five second rule:" before anyone can respond to any comment, he must wait five seconds.

Everyone in the group, including the person whose experience prompted the rule, found using it transformed their conversation. Here's one particularly revealing response.

I was completely astonished by the way in which the five-second rule utterly changed my participation in (our more than) six hours of group conversation that followed the adoption of this ground rule. I observed at least six separate things.

First, the five second rule prevented me from interrupting. I sometimes literally had to clap my hand over my mouth to prevent myself from exclaiming in the middle of someone's comment.

On a second related point, I found that I could no longer interject comments in order to try to reassure or change the affected flow of the conversation. For instance, in another setting, if friends of mine were making comments that were judgmental of themselves, I might be quick to interject, place a hand on their arm, or otherwise try to reassure them or even convince themselves to feel otherwise about the situation described.<sup>27</sup> The five second rule prevented me from doing that.

27. Compare to this excerpt from a physician:

One of my patients told me that when she tried to tell her story, people often interrupted to tell her that they had once had something like that happen to them. Subtly her pain became a story about themselves. Eventually she stopped talking to most people. It was just too lonely. We connect through listening. When we interrupt what someone is saying to let them know that we understand, we move the focus of attention to ourselves. When we listen, they know we care. Many people with cancer talk about the relief of having someone just listen. I have even learned to respond to someone crying by just listening. In the old days I used to reach for the tissues, until I realized that passing a person a tissue may just be another way to shut them down, to take them out of their experience of sadness and grief. Now I just listen. When they have cried all they need to cry, they find me there with them.

This simple thing has not been easy to learn. It certainly went against everything I had been taught since I was very young I thought people listen only because they were too timid to speak or did not know the answer. A loving silence has far more power to heal and to connect than the most well intentioned words.

Rachel Naomi Remen, *Kitchen Table Wisdom: Stories That Heal* 143-44 (New York, 1994).



Third, I noticed that the five second rule prevented me in similar ways from pursuing other agendas of mine. For instance, in the second point related above, I realized that I had an ongoing agenda to show that I was empathetically listening, and to assure the person that I was on their side. The five second rule prevented me from acting impulsively on that agenda, and actually acted to remind me that this was a point that need not be constantly reinforced. That is to say, I had a growing sense of confidence over time that my empathy and alliance with the other members of my small group was well understood and deeply felt, without my constant demonstration of it.

Fourth, as a result, as the person was speaking, I found myself settling deeper into the act of listening. I felt much less pressured to understand what the person was saying instantaneously (which, for instance, was required under the empathy agenda, because I needed to figure out quickly what the person was feeling in order to decide how I was going to respond or interject). Absent that agenda and a way to act on it, I found myself able to take in the thoughts and words expressed without formulating any immediate action plan.

Fifth, I found that during the actual five seconds of silence, my response changed. On at least a dozen occasions, I found myself at the beginning of the five second period with an immediate retort, quip or joke, which as the silence grew, seemed suddenly inappropriate. It felt like it was stating the obvious, or on occasion, appearing to dismiss rather than engage the comment. In a complementary way, I often found myself at the beginning of the five seconds very concerned by the serious nature of a comment but at the end of the five second period able to see the issue with a bit more perspective and perhaps a sense of humor. That was especially true when I was the speaker and experienced in the five seconds of silence a sense of acceptance and an opportunity to see my own issues in a different perspective, before they were commented upon.

Sixth, when conversation began after the five seconds were up, the conversation tended to move in a slower, more reflective way than other conversations among the same group when the rules were not in effect. For instance, there was no banter, there were somewhat fewer jokes, and in my experience, there was a willingness to leave issues unresolved and open ended. If I were to summarize in a nutshell the most transformative aspect of this five second rule for me, it was the freedom to listen deeply to another, and remove myself from the equation of describing or interpreting the event for a much longer period than I was usually able.

Of course the five second rule was not always easy. I remember times when I clapped my hand over my mouth and swayed from side to side five times, or pressed my lips together and literally counted with my fingers to show that I was desperate to speak and only waiting the allotted time. At least one

member of the group frequently stated his dislike of the rule, but also his conviction that he was learning something from it. In the end, I wondered if the surrounding of each comment by five seconds didn't give each comment a bit more gravity and provoked more thought about speaking and the direction in which any conversation would be taken.<sup>28</sup>

### Don't Offer Advice

Have you ever been in a conversation in which you're describing a problem you're experiencing and your interlocutor jumps in to offer you advice on how to deal with it, before you asked for his advice? On those occasions, did you always want advice, or did you simply want a sympathetic ear? Conversely, have you experienced rushing to help your interlocutor solve her problem, assuming that's what she wants from you? What if that's not what she wants or needs?

Instead of intervening with advice, which can suggest to an interlocutor that you doubt their capabilities, what if you were to follow Mary Rose O'Reilley's suggestion and simply listen, deeply and open-heartedly. Perhaps that would be more helpful to our interlocutor, or when we are similarly situated, to ourselves. When we withhold our advice until we're asked and simply remain present to our friend, student, or colleague, we're modeling for her our confidence that she has what she needs to solve her problem herself. In some circumstances, that can be a greater gift than our most thoughtful reflections on her problem.

### Listen With Your Hands Occupied

"I listen better when I knit..."

Listening with hands occupied offers a listener a chance to experiment with the context in which listening takes place. For instance, some teachers who find students tongue tied in one-on-one conversations across the desk in their office and find students much more comfortable talking if they are driving to an event together or walking in the neighborhood of the school. Many knitters and crafts people suggest that having their hands occupied, while eliminating eye contact with the speaker, actually makes it easier to focus on

28. Although the group wasn't aware of it when it instituted the five second rule, Elbow has a similar rule for methodological believing:

[T]here is a kind of "five-minute rule," which is a particularly easy way to try out methodological belief. A group can simply agree that whenever any participant feels that some idea or view is not getting a fair hearing, she can invoke the rule: for five minutes no criticism of the idea is permitted and everyone should try to believe it. Believing may seem impossible at first, but people can easily join in answering questions like these.

- What's interesting or helpful about the view? What are some of the intriguing features that others might not have noticed?
- What would you notice if you believed this view? If it were true?
- In what senses or under what conditions might this view be true?

Elbow, *Embracing Contraries*, *supra* note 5, at 274-75.

what's being said. For them, what others might find distracting is just the reverse; it enhances their listening. In addition, the experience of a context in which other activities are being performed often creates a more comfortable environment for the speaker.

One way to think about this experiment in listening is suggested by the group exercise at the end of this article. Take a critical incident of your listening and ask if it would have been different if it had happened while:

- a. driving
- b. cooking
- c. doing a jigsaw puzzle
- d. knitting
- e. playing tennis or basketball
- f. sharing a meal

### Practice Non-Judgment

Listening without expressing, or perhaps even feeling, judgment may offer fresh insight as well. Two experiments from legal practice literature may be helpful:

#### Active Listening—"Non-Judgmental Acceptance"

One widely used text on client interviewing and counseling suggests "active listening" techniques. When a client speaks, the actively listening lawyer is advised to reply by reflecting the "*essence* of the content of the client's remarks, as well as your perception, based both on the statement and on the client's non-verbal cues, of the client's feelings. You distill the information and emotion from the client's statement, and then convey back what you have heard and understood—hence the term, 'active listening.'"<sup>29</sup>

Binder, Bergman, and Price focus the lawyer on listening techniques that withhold judgment and reflect back the client's viewpoint. Teachers seeking active ways of encouraging students to speak freely can adopt a similar strategy.

#### Parallel Universes

In partnership with Sue Bryant of City University of New York Law School, Peters proposed a habit of "parallel-universe" thinking for cross-cultural competence in lawyering.<sup>30</sup> The habit is simple: when confronting any new story, where few facts are known, brainstorm multiple explanations for the facts available. Thus, a teacher confronted with a student who has not delivered a paper as promised would imagine numerous parallel universes that might explain

29. David A. Binder, Paul Bergman, and Susan C. Price, *Lawyers as Counselors: A Client-Centered Approach* 52-53 (St. Paul, Minn., 1991).

30. Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 *Clinical L. Rev.* 33, 70 (2001); Jean K. Peters, *Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions* 307 (2nd ed., Charlottesville, Va., 2001).

such lateness: a misunderstanding about the deadline, a computer problem, a family emergency, the completed paper delivered to the wrong office. The goal of parallel-universe thinking is not to brainstorm until the right answer is discovered, but rather to become aware of the vastness of the teacher's lack of data and knowledge and to become open to the multiplicity of possible explanations involved. Parallel universe thinking offers the listener an option to prejudgment and invites listening without judgment—listening to understand, rather than evaluate.

### Try a Group Exercise

Many of the ideas above can be adapted for groups as well as individuals. Here is one example of a group exercise we used at various presentations of the early versions of this article.

### Exploring Our Listening Together: A Group Exercise

Here's an exercise for a group of teachers. It takes anywhere from thirty minutes to an hour and is specifically designed to illustrate the experience of listening, but it also implicates several other exercises.

#### *Step 1: Recall a conversation with a student*

Identify a conversation you had with a student. You will be describing the conversation later to another participant. Be sure you can remember the conversation in some detail; try to remember at least part of it verbatim. Jot a few notes to recall this conversation and set it clearly in your mind.

#### *Step 2: Create a doubting/believing spectrum*

The group should review the reading on the doubting and believing spectrum. Using masking tape on the floor, the group can create a line up depicting the spectrum. The tape should be long enough to accommodate all participants standing somewhere on the line. With masking tape, create a B at one side of the line and a D at the other side. Before people proceed to stand where they are on the spectrum, the group should make sure that everyone understands what constitutes pure doubting and pure believing and understands what Elbow means by *methodological* doubting and believing.

#### *Step 3. Find your place on the line*

Recall your student conversation and think about the internal process (how you felt) and the external process (what you showed) of listening and conversing. Place yourself on the doubting and believing spectrum. The goal is to find one point that makes sense to you as an accurate statement of where you would place yourself on the doubting and believing spectrum during

this conversation. If you found that at certain moments you were at one part of the spectrum and other moments at another, pick a particular moment and use it to locate your place. If you find a contrast between your external and internal process, pick one and place yourself at one point. If you found yourself constantly moving between parts of the spectrum as you listened and using some sort of average makes more sense, feel free to express that instead. If you must choose between your differing processes, choose your internal process over your external process.

*Step 4. Three minutes each way*

Paired with another person for three minutes, describe your conversation and why you placed yourself where you did on the spectrum. As a listener, do not respond in any way, even nonverbally. Then switch roles and listen to your partner for three minutes.

*Step 5. Reflect on your experience*

Reconvene the group. Return to your seats and your notes. Spend some time reflecting and jotting your responses to the following questions. Call your student conversation your retrospective conversation and your current conversation your current experience of listening. On your page, make a column for each:

Retrospective conversation with student

Current experience of listening

Answer each of the following questions for each experience of listening:

A. Prohibition on advice. Would your experience of listening have been different if you knew you would never be asked or allowed to offer advice about the situation?

B. With hands occupied. Would your experience of listening have been different if it had happened while you were:

- a. driving?
- b. taking notes?
- c. doodling?
- d. knitting?
- e. making a salad?
- f. fishing?
- g. weeding a garden?

- h. working on a jigsaw puzzle?
- i. \_\_\_\_\_? Offer a similar example that fits into your life.

### **Conclusion**

Theologian Henri Nouwen described how he watched, in awe and wonder, as Phillippe Pettit walked a tightrope strung between a wall and the adjacent floor, only to realize, when Pettit had finished, that the last two feet of the rope had actually rested on the floor. What he viewed with amazement was an act that he performed, without thinking or appreciation, dozens of times every day! In the same way, we view these experiments in listening as an opportunity to view with fresh eyes, and with a certain awe and wonder, the sophistication, complexity, and importance of this daily act of listening, which we perform dozens of times, every day in our lives.

We hope that several of these exercises have intrigued you and that performing them has led you to fresh insights about how you listen and possibly to think about changing some of your practices. As we've suggested, for us, the exercises suggest that a thoughtful listener has a set of listening modes and, in any setting, carefully chooses which mode for listening. This listener uses a wide repertoire of skills and makes subtle, sophisticated choices about listening in each new context. At any moment, this listener is also conscious of distractions and obstacles and strategizes to eliminate impediments to optimal listening. Over time, with mindful attention to our processes, we can expand this repertoire and refine our listening.

What's most important to us is that you find strategies that work for you and help you explore your listening. There is something endlessly fascinating and challenging about this daily activity, and the reflective teacher may return to look at her listening practices fruitfully many times over a career. We encourage you to develop your own exercises, prompts, and analytical frameworks for a steady practice of exploring your listening through the years.