

## HANDOUTS

# *Working With High Conflict Clients: Ethics and Risk Management*

**Bill Eddy, LCSW, JD, CFLS**

### Morning

#### 8:15 **Understanding High Conflict Clients**

- 5 high conflict personality disorders
- Impact on parenting behavior
- Recent brain research
- Negative Advocates
- Targets of Blame
- The Cycle of High-Conflict Thinking

10:20 Break (coffee and tea)

#### 10:35 **Managing High Conflict Clients**

- Clear responsibilities
- Confidentiality and Duties to Warn
- Arms-length, client centered-relationship
- Connecting with empathy and respect
- Analyzing options and self-determination
- Responding to misinformation
- Setting limits, educating about consequences

12:00 p.m. Lunch (on your own)

### Afternoon

#### 1:15 **Managing High Conflict Environments**

- Dual relationships and scope of practice
- Family counseling and conflict resolution
- Divorce and Family Court
- Standards for court-involved therapists
- Workplace coaching and dispute resolution
- Ethical standards as a mediator
- Managing professional splitting

2:35 Break (coffee, tea, soda, snack)

#### 2:50 **Therapists As Targets of Blame**

- Malpractice and standards of care
- Administrative complaints
- Professional standards of practice
- Risks of violence
- Restraining order
- Managing terminations and transfers
- Managing risk while enjoying your work

4:15 Adjournment (pick up CE certificate)

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**Working with High Conflict Clients:  
Ethics and Risk Management**

J & K Seminars  
Sept. 15, 2011 - Lancaster, PA

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**COMMON ISSUES  
of High Conflict Clients**

- Rigid and Uncompromising
- Difficulty Accepting and Healing Loss
- Emotions Dominate Thinking
- Inability to Reflect on Own Behavior
- Difficulty Empathizing With Others
- Preoccupied with Blaming Others
- Avoids Responsibility (For Problem or Solution)
- Depends on Others to Solve Problems

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**IMPACT ON PARENTING**

- Depends on Child for Secure Relationship
- Sees Child's Needs as Same as Parent's
- Involves Child in All Disputes
- Lacks Empathy for Child
- Children seen as either Allies or Enemies
- *Wants* Child to Speak Against the Other
- Projects Negative Qualities onto Child

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**They May Have  
Personality Disorders**

Enduring pattern of distress and impairment:

- (1) Cognition (all-or-nothing thinking, etc.)
- (2) Emotions (disproportionate responses)
- (3) Interpersonal functioning
- (4) Impulse control (extreme behaviors)

- ❖Lack of insight/defensive about behavior
- ❖Unwilling/unable to change own behavior
- ❖Extremely sensitive to negative feedback

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**Core Issues of PDs:**

**#1: LACK OF SELF-AWARENESS**

People with personality disorders lack awareness of:

- Why they are the way they are
- How they contribute to own problems
- How to change

-- Aaron Beck (1990)

*Cognitive Therapy of Personality Disorders*

- Why they feel upset right now
- How they affect other people
- What skills they have that *do work*

***So they don't gain insights from feedback.***

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**Core Issues of PDs:**

**#2: LACK OF ADAPTATION**

When person loses "flexible adaptation" & takes a "non-reflective stance" in social interactions:

1. Behavior becomes rigidly patterned
2. This causes significant social impairment
3. Which causes significant internal distress
4. This rigid behavior "**evokes**" responses in others which "validate" their inflexible beliefs

-- Efrain Bleiberg (2001) *Treating Personality Disorders in Children and Adolescents*

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**Core Issues of PDs:  
#2: LACK OF ADAPTATION**

So we often need do opposite of what's evoked in us.

Resist fight or flight urges.

Resist disliking a party or being charmed too easily.

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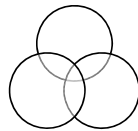
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**CLUSTERS OF PERSONALITY  
DISORDERS of DSM-IV**

- A: Paranoid, Schizoid, Schizotypal  
(Tend to avoid people)
- B: Borderline, Narcissistic, Antisocial, Histrionic  
(Tend to be high-conflict)
- C: Avoidant, Dependent,  
Obsessive-Compulsive  
(Tend to avoid conflict)



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**BORDERLINE**

1. Fear of abandonment
2. Idealization and devaluation of others
3. Unstable self-image
4. Impulsive behavior
5. Suicidal behavior or threats
6. Unstable moods
7. Chronic emptiness
8. Sudden, intense and extreme anger
9. Paranoia or dissociative

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**NARCISSISTIC**

1. Grandiose sense of self-importance
2. Fantasies of success, power, brilliance
3. Demands special treatment
4. Demands admiration
5. Sense of entitlement
6. Relationship Exploitation
7. Lack of empathy
8. Envious
9. Arrogant

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**HISTRIONIC**

1. Demanding of attention
2. Inappropriately seductive or provocative
3. Shifting and shallow emotions
4. Physical appearance draws attention
5. Speech is impressionistic and lacks detail
6. Dramatic, theatrical, and exaggerated
7. Suggestible
8. Believes relationships deeper than then are

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**ANTISOCIAL**

1. Repeated violation of social norms/laws
2. Lying and Conning
3. Impulsive and fails to plan ahead
4. Irritable and aggressive
5. Reckless
6. Irresponsible
7. Lack of Remorse
  - Conduct Disorder Before Age 15

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### PARANOID (Cluster A)

1. Fear of being exploited
2. Endless doubts about friends' loyalty
3. Fearful of confiding in others
4. Misinterprets as demeaning or threatening
5. Bears long-term grudges
6. Misperceives others as attacking his/her character, so reacts with "counter-attacks"
7. Suspects sexual infidelity of spouse/partner

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### Prevalence of Personality Disorders (NIH Study 2001-05)

National Institutes of Health study of over 35,000 people had following results for 5 "high conflict" personalities:

- Narcissistic = 6.2%
- Borderline = 5.9%
- Paranoid = 4.4%
- Antisocial = 3.6%
- Histrionic = 1.8%

All have substantial overlap with other personality disorders, substance abuse, depression, anxiety, bipolar disorder and suicide

----*Journal of Clinical Psychiatry*, 7/2004, 4/2008 & 7/2008

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### Prevalence of Personality Disorders (NIH Study by Age Groups)

- Narcissistic = 6.2%  
65+=3.2    45-64=5.6    30-44=7.1    20-29 = 9.4
- Borderline = 5.9%  
65+=2.0    45-64=5.5    30-44=7.0    20-29 = 9.3
- Paranoid = 4.4%  
65+=1.8    45-64=3.6    30-44=5.0    18-29 = 6.8
- Antisocial = 3.6%  
65+=0.6    45-64=2.8    30-44=4.2    18-29 = 6.2
- Histrionic = 1.8%  
65+=0.6    45-64=1.2    30-44=1.8    18-29 = 3.8

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### Gender of Personality Disorders

Narcissistic =

Borderline =

Paranoid =

Antisocial =

Histrionic =

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### Disclaimer

- This seminar does not train you to diagnose personality disorders.
- It may be harmful to tell someone that you believe that they have a personality disorder.
- Just recognize potential patterns and adapt your approach accordingly.
- Just develop a Private Working Theory
- Sometimes its appropriate to discuss the disorder.

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### CAUSES

1. **Biological factors**, such as genetic tendencies and temperament at birth.
2. **Early childhood factors**, such as early parenting "attachment" disruptions, child abuse or other trauma before age 5.
3. **Social learning**, such as "invalidating environments": being ignored for positive behaviors and getting more attention for mood swings and extreme emotions; family and community tolerance of bad behavior; role models w personality disorders.
4. **Larger Culture**: Attention and rewards for Drama, Mood Swings, Narcissism & Violence

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**Treatments for  
Personality Disorders**

- Many considered hopeless until recently
- Dialectical Behavior Therapy (DBT)
  - Skills building group therapy
  - Individual therapy (focus on skills)
  - Consultation group for therapists
  - Lots of validation, not blame of person
- Schema Therapy (focus on thinking skills)
- Other Cognitive-Behavioral Therapies
- Psychodynamic therapies with skilled therapist
- Importance of "secure attachment" with therapist

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**2 Hemispheres of Brain (approx.)**

<ul style="list-style-type: none"> <li>• <u>Left Hemisphere</u></li> <li>• "Logical Brain"</li> <li>• Generally Conscious</li> <li>• Language</li> <li>• Thinks in words</li> <li>• Planning</li> <li>• Examines Details</li> <li>• Rational analysis</li> <li>• Systematic Solutions</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Right Hemisphere</u></li> <li>• "Relationship Brain"</li> <li>• Generally Unconscious</li> <li>• Observes relationships</li> <li>• Thinks in pictures</li> <li>• Creativity, Art, Intuition</li> <li>• Non-verbal Skills</li> <li>• Facial recognition &amp; cues</li> <li>• Gut feelings</li> </ul>
<ul style="list-style-type: none"> <li>• Positive Emotions</li> <li>Calm, contentment, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Negative Emotions</li> <li>Hurt, anger, fear, etc.</li> </ul>

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**COGNITIVE DISTORTIONS**  
(Right Brain fast defensive thinking?)

- All-or-Nothing Thinking
- Emotional Reasoning
- Jumping to Conclusions
- Personalization
- Projection
- "Splitting"

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### Corpus Callosum

- The “bridge” wiring between the hemispheres.
- Aids in the flow of information back and forth. More flow is better.
- It’s smaller in repeatedly abused children.
- It’s smaller in adults with borderline personality disorder (possibly the result of abuse in childhood).
- Some people get stuck in rt. brain upset emotions; can’t access their left brain problem-solving skills.

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### Amygdala in Non-Verbal Communication

- Amygdala of the brain:
- Alarm center; “Smoke Detector” of brain
  - “Hijacks” brain for fast, unconscious defensive responses -- faster than “thinking”
  - Shuts down logical, analytical thought processes
    - Daniel Goleman
    - Emotional Intelligence* (1995)
  - Attentive to facial expressions, specifically Rt. Amygdala:
    - fear and anger** (not other neg. emotions)
    - Allan Schore
    - Affect Regulation and the Repair of the Self* (2003)

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### Mirror Neurons

- Recent discovery in brain research
  - Neurons in our brains automatically “mirror” activities we watch, to prepare to do the same
  - Emotions are mirrored: smiles, sadness, anger
  - Empathy may be a mirroring activity
  - You can over-ride mirroring and act opposite (respond to anger with empathy; sadness with hope; upset emotions with problem-solving)
- *Mirroring People: The New Science of How We Connect with Others*, Iaconboni (2008)

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**HCP emotions hook**  
**Negative Advocates**

Because of weak problem-solving skills and inability to adapt, HCPs seek Family, Friends, Professionals and others to help

They often become “Negative Advocates”  
 For HCP’s extreme thinking  
 For HCP’s extreme emotions  
 For HCP’s extreme behaviors

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**NEGATIVE ADVOCATES**

- They just want to help (we’ve all been one!)
- Misled by HCP’s charm, hurt, fear, anger
- Believe cognitive distortions of upset HCP
- Advocate against perceived enemies
- Protect HCP from natural consequences
- Escalate conflicts inadvertently
- May have high conflict personality (but most don’t)
- They’re “emotionally hooked” but uninformed.
- Treat them same as HCPs. Inform them if possible.

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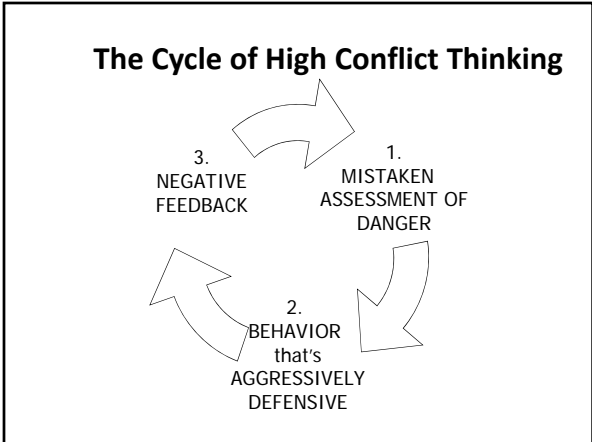
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**The 3-Step Cycle**

1. **Mistaken Assessment of Danger**  
 High Conflict Person feels internal distress, but it *feels* like external danger  
 (Being Abandoned, Treated Inferior, Ignored, Dominated, etc.)
2. **Behavior that's Aggressively Defensive**  
 HCP verbally, physically, legally, financially, etc., attacks the *perceived* source of danger
3. **Negative Feedback**  
 HCP gets negative feedback (most feedback *feels* negative to HCPs), which escalates HCP

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HIGH CONFLICT  
  
 INSTITUTE

**Managing  
 High Conflict Clients**

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**Clear Responsibilities  
 and Boundaries**

High Conflict clients need more structure and clarity  
 High Conflict clients often have serious boundary issues  
 Resist client's desires for YOU to become responsible for THEIR behavior or to play a parental role  
 Perhaps replicating an "insecure attachment" relationship with you (transference?)  
 Recognize what this "evokes" in you (fight or flight?) and override those responses  
 (counter-transference?)  
 (normal amygdala response?)

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**Client Responsibility  
for Behavior and Decisions**

High Conflict clients pressure professionals to become responsible for solving their problems

Keep responsibility for decision-making on the clients

Avoid getting emotionally hooked; don't feel responsible for fixing clients or solving their problems

You're not responsible for their outcomes – just your standard of care (we'll be talking about this)

Each irresolvable problem they desperately give you is "another dilemma" for them to resolve or manage

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**Therapist Responsibility for  
Boundaries and Expectations**

Predict relationship problems from the start

Predict crises and conflicts – and normalize dealing with them. (Loving, hating you, etc?)

How available are you?

Will you talk on the phone between sessions?

What about email?

How will you deal with crises?

Remember: **The "issue's" not the issue; your relationship is the issue!**

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**Therapist Responsibility  
for Safety Issues**

Client danger to self:

- Suicide
- Gravely disabled

Duty to warn others

Duty to report child abuse

Duty to report elder abuse

Domestic Violence

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**Arms-length, Client-centered Relationship**

With HCP clients, think of yourself as *with them* in their journey to manage their own lives

Manage your own anxiety:

Avoid becoming too directive

Avoid becoming too passive

Stay *with them*; don't *fix them*.

Take a no blame, no shame approach.

**Their bad behavior is not about you!** Even when they say it is! Like addiction: you're not cause or the cure. Avoid being a hero. Or too guilty.

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**Talk to the "Right" Brain  
(The Relationship Brain)**

- Tone of voice and body language is amazingly important: Calm, confident, firm
- Avoid logical arguments in times of stress
- Avoid giving Negative Feedback (about the whole person, focusing on the past, negative tone of voice)
- Avoid threats: these escalate the HCP
- Communicate in ways you would like them to mirror

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**4 Key Skills for Managing HCPs**

**C.A.R.S. Method**

1. CONNECTING with E.A.R.
2. ANALYZING options and dilemmas
3. RESPONDING to misinformation
4. SETTING LIMITS on behavior

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**1. CONNECTING:  
Empathy, Attention & Respect**

You'll be frustrated by the HCP's emotional reactivity and thinking distortions. It's easy to get "emotionally hooked," and to withhold any positive responses. It's easy to feel a powerful urge to attack or criticize. Instead, consciously use your E.A.R.:

- EMPATHY
- ATTENTION
- RESPECT

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**Empathy**

- Acknowledge the person is upset:  
"I can see this is upsetting."  
"Wow! You're really upset."
- Let person know you care:  
"I care about you and want to help."  
"I want you to succeed here."
- Connect with their feelings:  
"I can understand how frustrating this is."

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**E.A.R. Statement**

- Example: "I can *understand* your frustration – this is a very important decision in your life. Don't worry, I will pay full *attention* to your concerns about this issue and any proposals you want to make. I have a lot of *respect* for your commitment to solving this problem, and I look forward to solving it too."

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### Fears and EARs for HCPs

Their Fear

Your EAR Response

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Being abandoned</li> <li>• Being seen as inferior</li> <li>• Being ignored</li> <li>• Being dominated</li> <li>• Being taken advantage of</li> </ul> | <ul style="list-style-type: none"> <li>• I want to help you</li> <li>• I respect your efforts</li> <li>• I'll pay attention</li> <li>• I'll listen</li> <li>• Its just rules we all have to follow</li> <li>• I understand this can be frustrating</li> <li>• I'll work with you on this</li> <li>• I know this can be confusing</li> </ul> |
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### Cautions about E.A.R.

- Avoid believing or agreeing with content.
- Avoid volunteering to "fix it" for them (in an effort to calm down their emotions).
- Be honest about empathy and respect (find something you truly believe)
- Keep an arms-length relationship.
- You don't have to listen forever.
- You don't have to use words or these words.

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### Showing your E.A.R.

- Empathize; don't argue with their logic – try to understand it. You won't talk them out of their fears, but you can **empathize with their fears**.
- Pay attention: Reduce their fears in the process of dispute resolution, by reassuring that you are not going to make assumptions or quick decisions; **pay attention to their concerns**.
- Be respectful: Put more energy into clarifications, to make sure you understand how they are thinking, and what they heard you say.

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### Working with Resistance

- Be self-aware of your own emotions
- HCPs really push therapist buttons
- You don't have to work miracles
- You're not responsible for the outcome
- "Go with the resistance" and explore it
- Gently re-direct client back to skills focus
- No failure, no blame approach
- Model comfort with ambivalence, many sides to the issues, no one right answer; lots of EAR

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### 2. ANALYZING Options and Self-Determination

Emphasize client's role and abilities to make decisions:

Have client write a list of options; look at the list together; if appropriate, allow any option to be put on the list no matter how silly; THEN discuss realistic options; see if a new solution arises from the unrealistic ones; then, give them a choice between most realistic options that are acceptable to you.

Writing and reading lists activate the brain's rational thinking skills in deciding which choice to make (Which side of the brain focuses on writing?)

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### 2. ANALYZING Options (Give them a Choice)

- In high-conflict situations, don't focus on feelings. You won't resolve their emotional issues. Just acknowledge their frustrations. Talk to the right brain.

Instead, focus upset person on a choice:

- The goal is to get the upset person focused on problem-solving, away from his or her emotions.
- This puts responsibility on the person to help solve the problem; puts responsibility on the person for making the choice.
- It gives them some power, when they feel powerless.

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**2. Analyzing Options  
(Give them a Choice)**

Or: **Verbally give a choice**

“Do you want to deal with this now, or should we discuss another day?”

“Do you want to call me, or I’ll call you?”

“It needs to be fixed. You can do it today or tomorrow – which do you prefer?”

“**It’s your choice.** I’ll give you 5 minutes to decide.”

(Or 5 days, whatever is appropriate to situation.)

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**2. Analyzing Options  
(Make a Proposal)**

If appropriate, put the burden back on the complainant:

**“Then, what would you propose?”**

But don’t do this if you know proposal will be absurd

Teach people to respond to proposals by simply saying:

“Yes” “No” or “I’ll think about it”

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**RESPONDING  
TO PROPOSALS**

- When you hear a proposal, think about it and then just say: “Yes”, “No”, or “I’ll think about it.”
- Avoid criticizing a proposal. Just say Yes, No, or I’ll think about it.
- It’s okay to ask questions about a proposal, such as: “What’s your picture of what this would look like, if I agreed to do it?”
- “And if you don’t like a proposal, just make a new one!”

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### Teach B.I.F.F Responses

**Brief:** Keep it brief. Long explanations and arguments trigger upsets for HCPs.

**Informative:** Focus on straight information, not arguments, opinions, emotions or defending yourself (you don't need to)

**Friendly:** Say you have empathy for their concerns; you will pay attention to their concerns; you will respect their efforts (E.A.R.)

**Firm:** Gently repeat information and close the door to further argument

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### 3. Responding to Misinformation (Maintain a Healthy Skepticism)

- Remain skeptical of the accuracy of the person's information. There may be many cognitive distortions.
- Let them know that you will never know the full story. It is *possible* the extreme statements they are making are true. **"You might be right!"** And *possibly* not true.
- But next steps can still be taken and decisions can still be made about the future.

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### It's their Dilemma

- Keep the burden of solving problems on the client. No matter how badly they want you to do it.
- Tell them **"You have a dilemma. How do YOU want to resolve it?"**
- Then, if they can't think of options, you could suggest several, based on your knowledge.
- Be a role model of comfort with ambivalence.

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**4. Setting Limits on High Conflict Behavior**

- HCPs need limits because they can't stop themselves
- With HCPs, focus on **external reasons** for new behavior (rather than focusing on negative feedback about past behavior):
- "Our policies require us to ..."
- "The law requires me to ..."
- "It might appear better to \_\_\_\_\_ if you..."
- "I understand, but someone else might misunderstand your intentions with that action..."
- "Let's take the high road..."
- "Choose your battles..."

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**4. Setting Limits (con't) Educate About Consequences**

- HCPs do not connect realistic CONSEQUENCES to their own ACTIONS, especially fear-based actions.
- They feel like they are in a fight for survival, which blinds them to realities.
- Their life experiences may have taught them different consequences than most.
- They can be educated by a caring person.

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**4. Setting Limits (cont'd) Set Personal Limits**

- About when you will meet
- About how long you will meet
- About where you will meet
- About what you will discuss
- About who will be present
- About phone & email access to you
- About what they need to bring
- About what they need to do before

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**4. Setting Limits (cont'd)  
Set Community Limits**

- What authority is in your organization or community who can set limits more than you can alone?
- Management
- What policies and procedures exist
- Mediation services
- Arbitration services
- Law enforcement and the Courts

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**Issues for Organizations  
Dealing with HCPs**

- They push policy boundaries
- If there's a policy gap, develop a policy
- Use your E.A.R. while setting boundaries
- Have a specific person for HCP contact
- Watch out for splitting
- Document, document, document
- Correct public misinformation quickly

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**Summary of Key HCP Skills**

- 1. CONNECTING:** Listen closely (briefly), then respond with Empathy, Attention and/or Respect (E.A.R.)
- 2. ANALYZING:** Get client to make a list of problems/options and choose a task
- 3. RESPONDING:** Be Brief, Informative, Friendly and Firm (B.I.F.F.)
- 4. SETTING LIMITS:** Don't make it personal. Use "Indirect Confrontations" by helping client deal with policies and procedures.

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**DUAL RELATIONSHIPS**

**SEXUAL CONTACT**  
Standard 1.09(a)

1) "Social Workers should under no circumstances engage in Sexual Activities or sexual contact with current clients, whether such contact is consensual or by force".

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**SEXUAL CONTACT**  
Standard 1.09 (b)

2) "Social Workers should not engage in sexual activities or sexual contact with clients' **relatives or other individuals** with whom clients maintain a close personal relationship when there is a risk of exploitation or potential harm to the clients. ... Social Workers... assume the whole burden for setting clear, appropriate, and culturally sensitive boundaries."

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**PHYSICAL CONTACT  
Standard 1.10**

“Social Workers should not engage in physical contact with clients when there is a possibility of psychological harm to the client as a result of the contact (such as cradling or caressing clients). Social Workers who engage in appropriate physical contact with clients are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact.”

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**SEXUAL HARASSMENT Standard 1.11**

“Social Workers shall not sexually harass clients. Sexual Harassment includes sexual advances, sexual solicitation, request for sexual favors, and other verbal or physical contact of a sexual nature.”

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**MFTS  
Standard 1.2.1**

- Sexual Intercourse, Sexual Contact or Sexual Intimacy with a patient or a patient’s spouse or partner, during the therapeutic relationship, or during the two years following the termination of the therapeutic relationship is unethical.”

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**Standard 1.2**

“... Marriage and Family Therapists avoid **dual relationships** with patients that are reasonably likely to impair a professional judgment or lead to exploitation. ... When a dual relationship cannot be avoided, therapists take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs.”

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**Standard 1.2.2**

“ Other acts which would result in unethical **dual relationships** include, but are not limited to, borrowing money from a patient, hiring a patient, engaging in a business venture with a patient, or engaging in a close personal relationship with a patient. Such acts with a patients spouse, partner or family member may also be considered unethical dual relationships.”

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**Is it a Dual Relationship?**

- Receive a gift from a client? Does value matter?
- Have lunch? Dinner? Breakfast?
- Go camping with a client?
- Talk to a client in a local store?
- Go to a client’s wedding?
- Birthday party? Recovery birthday ceremony?
- Give a client a ride home after counseling?

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**Is it Beyond Scope  
of your Practice?**

- Couples therapy?
- Recommending medications?
- Hypnotherapy?
- Alcohol and Drug treatment?
- Domestic violence treatment?
- Telehealth therapy by phone or Skype?

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**Tips for “Behavioral Telehealth”**

- No cell phones for any confidential info
- Make sure voicemail is private, otherwise don't leave confidential info
- For telephone sessions:
  - Make sure it's a good time & location for pt
  - Maintain a professional tone
  - Have plan for handling emergencies
  - Alternate contact information
  - All normal standards of care apply
  - Have malpractice insurance that covers

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**Tips for “Behavioral Telehealth”**

- Avoid telephone as sole means of providing clinical services.
- Need to be able to thoroughly assess client.
- Have knowledge of resources in client's area (especially for referrals and emergencies)
- Be careful you are not practicing outside of the scope of your expertise or state license.
- Mandatory reporting requirements and duties to warn still exist.
- Standard of care may be same as for in-person treatment, even though harder to assess pt.

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**Family Counseling  
and Conflict Resolution**

- Should you do couples therapy for your individual client?
- Should you do individual therapy if one partner drops out?
- Should you mediate a family crisis when you are seeing one or more family members in therapy?
- Does informed consent help?

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**Divorce and Family Court  
Treating minors in Divorce**

- Who has Legal Custody?
- Joint Custody may require consent of both parents for treatment of child
- In many states therapists are not required to see court orders about Legal Custody before treating child. Burden is on parents to comply with court orders, not therapists
- Encourage parents to get both signatures.

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**Confidentiality Issues  
in Divorce Cases**

- Avoid writing letters or declarations to court. If you do, limit to your **own observations**, rather than opinions. Don't discuss person you haven't met or who has not signed an authorization releasing you.
- Evaluators and others often contact therapists in custody and visitation disputes, so you can just give verbal input.

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### **Court Involved Therapists**

- Be very clear on your role:
    - Confidential?
    - Reporting to court?
    - Are you serving as expert with opinions and recommendations? Subject to cross-examination?
    - Are you serving purely as therapist? If so, should you only describe your simple observations and not make recommendations?
    - Is your child therapy totally confidential?
- See *AFCC standards for Court Involved Therapists*

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### **Workplace Coaching and Dispute Resolution**

- Know what you are doing. Is this within your scope of competence?
- Increasingly, employers are dealing with high conflict employees, managers, clients
- Have a structured process
- Have clear boundaries and expectations
- Avoid bringing bullies and victims together for workplace mediation, unless protections in place for victims

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### **Ethical Standards for Mediators**

- Must disclose any prior relationship with a party
- Must keep confidential and discuss any limits of confidentiality, such as whether you are a mandated reporter of child or elder abuse
- Must remain neutral and impartial
- Is it proper to make recommendations to the parties or form opinions about legal outcomes?
- Are you qualified to handle custody mediation?
- Financial matters in a divorce?
- Be clear on scope of services and avoid exceptions

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**Process Tips for Mediators**

- Work hard at appearing neutral
- Have clients make all process decisions
- Ask “What do you think about that proposal?” rather than “How do you feel about that?” so don’t open up emotions.
- Avoid pressing them for agreement; hold back and keep burden on them
- Let them decide if it’s not working  
(you don’t have to fire most high conflict clients – just explain your limitations and let them decide)

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**Professional Splitting**

- HCPs see other people as all-good or all-bad
- They share their views with emotional intensity
- They tell others who’s all-good and who’s all-bad
- Others absorb these intense emotions unconsciously
- Professionals can start hating each other
- In teamwork its common for half the group to feel supportive of the HCP – and defend the HCP
- The other half grows increasingly frustrated and angry with the HCP – and challenges the other half

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**Professional Splitting Dynamics**

- It’s personal
- It’s hostile
- It’s about attacking personal competence, ethics, intelligence, etc.
- Positions are polar opposites, all-or-nothing
- May be one or more professionals splitting
- It often involves projection onto the other, and therefore “getting it backwards”

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**7 Solutions to Professional Splitting**

1. Recognize it as projection of client's problem
2. Don't automatically believe what you hear; check out allegations directly with others
3. Anticipate and avoid getting "hooked"
4. Avoid extreme solutions: anger at client or anger at other professionals; avoid total punishment or total excuses as solutions
5. Remain open-minded at all times
6. Collaborate to help client integrate
7. Treat all parties and professionals with Empathy, Attention and Respect (E.A.R.)

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HIGH CONFLICT  
  
 INSTITUTE

**Therapists as Targets of Blame**

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**MALPRACTICE=NEGLIGENCE**

Requires ALL FOUR of the following:

- Duty (Standard of Care)
- Breach of Duty
- Causation
- Damages

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**Sources of “Standard of Care”**

- Federal Laws
- State Statutes
- State Case Law
- Your Profession’s Codes of Ethics
- Agency Rules and Regulations
- Professional continuing education

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**Administrative Complaints**

- Licensing Boards generally handle most legal actions; malpractice suits less often
- Based on state laws and rules
- Each has procedure for assessing the case
- High conflict clients are highly confusing to boards, but high percentage of cases
- Don’t be a Target of Blame – stay within practice standards & get lots consultation

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**Professional Standards of Practice  
(in state laws)**

- Fraud in obtaining a license
- Fraud in using a license; unrealistic claims of success
- Misrepresenting your license and scope of services
- Fraud in supervision (not really supervising)
- Fraudulent billing (e.g. adjustment disorder instead of major depressions; not charging the co-pay)
- Etc., etc.

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**Why HCPs Sue or File Complaints:**

Relationship issues more than competence:

- Feel abandoned
- Lack of communication
- High expectations weren't met
- Therapist avoids dealing with client
- Therapist sues for fees
- Therapist rejects or appears to reject client
  
- Protect by establishing realistic expectations and boundaries from the start, and repeat

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**CLIENTS MOST LIKELY TO SUE:  
HIGH CONFLICT PERSONALITIES**

- Are preoccupied with blaming others (everyone)
- Avoid taking responsibility
- Get in conflicts with those closest to them
- Are usually not obvious as HCPs at the start
- May be your most engaging clients
- Often have Cluster B Personality disorders or traits (Borderline, Narcissist, Antisocial, and Histrionic)
- May be involved in or have history of litigation

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**Treating Clients with  
High Conflict Personalities**

With all clients (just to be safe):

- Avoid creating unrealistic expectations
- Avoid apologizing too much
- Avoid bending your own rules
- Avoid working harder than your client
- Avoid direct anger at your client
- Avoid believing your client too much
- Avoid making it personal
- Pay attention to your fear
- Avoid believing stories about other professionals
- Avoid becoming isolated in your work

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### 12 Pitfalls for Psychotherapists (Caudill)

1. Excessive or Inappropriate Self Disclosure
2. Business relationships with Patients
3. Using Techniques Without Proper Training
4. Using Incorrect Diagnosis Deliberately
5. Avoiding the Medical Model
6. "True Love" Exception for Sex with Clients
7. Inadequate Notes
8. Failure to Obtain an Adequate History
9. Uncritically Accepting What a Patient Says
10. Use of Inappropriate Syndrome Testimony
11. Out of the Office Contact
12. Failure to Obtain Peer Consultation

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### Risks of Violence

- When a patient's expectations have been unrealistically raised;
- When a dangerous patient forms an intense transference attachment with therapist;
- When there is a history of violence or factors in a patient's background are hard to know;
- When a patient has and uses weapons;
- When a patient has substance abuse problem
- When a patient has impulse control problem

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### Restraining Orders

- In some cases, therapists have had to obtain restraining orders against former clients
- Often its result of patient falling in love with therapist and therapist feeling threatened
- Choices:
  - Preventive approach: explain to all clients from start that love and hate can occur in treatment, and they are to be talked about as transference.
- Or: Transfer client carefully, so that there can be processing of feelings, if realistically possible

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### Terminations and Transfers

- High conflict clients have intense “insecure attachment” relationship issues: feeling abandoned, inferior, ignored, dominated and betrayed.
- Take time to talk through these issues, if possible.
- If you’re the next therapist, talk about the concerns about changing as much as possible.
- Talk about style differences; benefits to client.

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### Coping with the Stress

- Daily Remind Yourself:
  - “It’s not about you!” Its about their lack of skills
  - “The issue’s not the issue. HCP thinking is the issue”
  - “You’re not responsible for the outcome – just providing your professional standard of care”
  - “Don’t work harder than your clients” – or they don’t work at all
- Get lots support & consultation from colleagues
- Don’t let it run your life  
(Do something fun in your free time)

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### Summary

- HCPs often have personality disorders or traits
- HCPs’ difficult behavior is mostly unconscious
- HCPs want relief from their constant distress
- HCPs push professional boundaries out of desperation, not out of desire to be difficult
- Direct confrontation brings resistance and escalation of blame, not insight for HCPs
- Most HCPs have problem-solving skills, which you can access if you calm their emotions (right brain)
- Many HCPs can be helped

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# Calm Upset People with E.A.R.

**By Bill Eddy, LCSW, Esq.**

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Everyone gets upset some of the time. High conflict people get upset a lot of the time. A simple technique called an “E.A.R. Statement” can help you calm others down. This is especially helpful if you are in a close relationship or a position of authority. High conflict people tend to emotionally attack those closest to them and those in authority when they are frustrated and can’t manage their own emotions. The intensity of their uncontrolled emotions can really catch you off-guard. But if you practice making E.A.R. statements you can really connect with upset people, which is really what they want.

## **E.A.R. Statements**

E.A.R. stands for Empathy, Attention and Respect. It is the opposite of what you feel like giving someone when he or she is upset and verbally attacking YOU! Yet you will be amazed at how effective this is when you do it right.

An E.A.R. Statement connects with the person’s experience, with their feelings. For example, let’s say that someone verbally attacks you for not returning a phone call as quickly as he or she would have liked. “You don’t respect me! You don’t care how long I have to wait to deal with this problem! You’re not doing your job!”

Rather than defending yourself, give the person an E.A.R. Statement, such as: “Wow, I can hear how upset you are. Tell me what’s going on. I share your concerns about this problem and respect your efforts to solve it.” This statement included:

**EMPATHY:** “I can hear how upset you are.”

**ATTENTION:** “Tell me what’s going on.”

**RESPECT:** “I respect your efforts.”

## **The Importance of Empathy**

Empathy is different from sympathy. Having empathy for someone means that you can feel the pain and frustration that they are feeling, and probably have felt similar feelings in your own life. These are normal human emotions and they are normally triggered in the people nearby. (Emotions are contagious!) When you show empathy for another person, you are treating them as a peer who you are concerned about and can relate to as an equal in distress.

Sympathy is when you see someone else in a bad situation that you are not in. You may feel sorry for them and have sympathy for them, but it is a one-up and one-down position. There is more of a separation between those who give sympathy and those who receive it.

You don’t have to use the word “empathy” to make a statement that shows empathy. For example:

“I can see how important this is to you.”  
“I understand this can be frustrating.”  
“I know this process can be confusing.”  
“I’m sorry to see that you’re in this situation.”  
“I’d like to help you if I can.”  
“Let’s see if we can solve this together.”

## **The Importance of Attention**

There are many ways to let a person know that you will pay attention. For example, you can say:

“I will listen as carefully as I can.”  
“I will pay attention to your concerns.”  
“Tell me what’s going on.”  
“Tell me more!”

You can also show attention non-verbally, such as:

Have good “eye contact” (keeping your eyes focused on the person)  
Nod your head up and down to show that you are attentive to their concerns  
Lean in to pay closer attention  
Put your hand near them, such as on the table beside them  
(but be careful about touching an upset HCP – it may be misinterpreted as a threat, a come-on, or a put-down)

## **The Importance of Respect**

Anyone in distress, and especially HCPs, need respect from others. Even the most difficult and upset person usually has some quality that you can respect. By recognizing that quality, you can calm a person who is desperate to be respected. Here are several statements showing respect:

“I can see that you are a hard worker.”  
“I respect your commitment to solving this problem.”  
“I respect your efforts on this.”  
“I respect your success at accomplishing \_\_\_\_\_.”  
“You have important skills that we need here.”

## **Why E.A.R. is so Important to HCPs**

They’re not getting it anywhere else. They have usually alienated most of the people around them. It is the last thing that anyone wants to give them. They are used to being rejected, abandoned, insulted, ignored, and disrespected by those around them. They are starving for empathy, attention and respect. They are looking for it anywhere they can get it. So just give it to them. It’s free and you don’t sacrifice anything. You can still set limits, give bad news, and keep a social or professional distance. It just means that you can connect with them around solving a particular problem and treat them like an equal human being, whether you agree or strongly disagree with their part in the problem.

## **What to Avoid**

Don’t Lie  
You don’t have to listen forever  
E.A.R. doesn’t mean you agree  
Maintain an “arms-length” relationship

## Manage Your Amygdala

Of course, this is the opposite of what we feel like doing. You may think to yourself: “No way I’m going to listen to this after how I’ve been verbally attacked!” But that’s just your amygdala talking, in an effort to protect you from danger. Our brains are very sensitive to threats, especially our amygdalas (you have one in the middle of your right hemisphere and one in the middle of your left). Most people, while growing up, learn to manage the impulsive, protective responses of their amygdalas and over-ride them with a rational analysis of the situation, using their prefrontal cortex behind the forehead.

In fact, that is a lot of what adolescence is about: learning what is a crisis needing an instant, protective response (amygdala) and learning what situations are not a crisis and instead need a calm and rational response (prefrontal cortex). High conflict people often were abused or entitled growing up, and didn’t have the secure, balanced connection necessary to learn these skills of emotional self-management. Therefore, you can help them by helping yourself not over-react to them – use your own prefrontal cortex to manage your amygdala.

### It’s Not About You!

Remind yourself it’s not about you! Don’t take it personally. It’s about the person’s own upset and lack of sufficient skills to manage his or her own emotions. Try making E.A.R. statements and you will find they often end the attack and calm the person down. This is especially true for high conflict people (HCPs) who regularly have a hard time calming themselves down.

All of these are calming statements. They let the person know that you want to connect with him or her, rather than threaten him or her.

## Conclusion

Making E.A.R. statements – or non-verbally showing your Empathy, Attention and Respect – may help you avoid many potentially high-conflict situations. It can save you time, money and emotional energy for years to come.

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**High Conflict Institute** provides training, books and consultations regarding High Conflict People (HCPs) for professionals dealing with legal, workplace, healthcare and educational disputes. Bill Eddy is the President of High Conflict Institute and the author of *“It’s All YOUR Fault! 12 Tips for Managing People Who Blame Others for Everything.”* He is an attorney, mediator and therapist. Bill has presented seminars to attorneys, judges, mediators, ombudspersons, human resource professionals, employee assistance professionals, managers and administrators in over 25 states, several provinces in Canada, France and Australia. For more information about High Conflict Institute, our seminars or consultations, or Bill Eddy and his books, go to: [www.HighConflictInstitute.com](http://www.HighConflictInstitute.com) or call 602-606-7628.

# YES, NO, or I'LL THINK ABOUT IT

## (Two Tips for Resolving Any Conflict)

By: Bill Eddy, LCSW, ESQ.

Whether in a divorce, a workplace dispute, or a conflict with a neighbor, it's easy to get caught up in defending our own behavior and point of view. In a conflict, people can "push our buttons," and it's easy to react before we know it. The focus can quickly become personal and about the past.

To avoid this problem, there's a simple, two-step method that seems to help, no matter what type of conflict you are in. If you think you are going to be in a difficult situation, remind yourself of these two steps before you start talking. And if you are in the middle of an argument, you can always shift to this approach.

### 1) First Person: MAKE A PROPOSAL

Whatever has happened before is less important than what to do now. Avoid trying to emphasize how bad the problem is or criticizing the other person's past actions. There's nothing he or she can do about the past now. This just triggers defensiveness. Plus, people never agree on what happened in the past anyway. Instead, picture a solution and propose it.

For example, in a divorce dispute: "If you're going to be late to pick up the kids on Fridays, then I propose we just change the pickup time to a more realistic time. Instead of 5pm, let's make it 6:30pm."

Or in a workplace dispute: "I propose that we talk to our manager about finding a better cubicle for you, since you have so many phone calls that need to be made and I often hear them."

### 2) Second Person: YES, NO, or I'LL THINK ABOUT IT

All you have to do to respond to such a proposal is say: "Yes." "No." or "I'll think about it." You always have the right to say: "Yes." "No." or "I'll think about it." Of course, there are consequences to each choice, but you always have these three choices at least. Here's some examples of each:

**YES:** "Yes, I agree. Let's do that." And then stop! No need to save face, evaluate the other person's proposal, or give the other person some negative feedback. Just let it go. After all, if you have been personally criticized or attacked, it's not about you. Personal attacks are not problem-solving. They are about the person making the hostile attack. You are better off to ignore everything else.

**NO:** “No, I don’t want to change the pickup time. I’ll try to make other arrangements to get there on time. Let’s keep it as is.” Just keep it simple. Avoid the urge to defend your decision or criticize the other person’s idea. You said no. You’re done. Let it drop.

**I’LL THINK ABOUT IT:** “I don’t know about your proposal, but I’ll think about it. I’ll get back to you tomorrow about your idea. Right now I have to get back to work. Thanks for making a proposal.” Once again, just stop the discussion there. Avoid the temptation to discuss it at length, or question the validity of the other person’s point of view. It is what it is.

When you say “I’ll think about it,” you are respecting the other person. It calms people down to know you are taking them seriously enough to think about what they said. This doesn’t mean you will agree. It just means you’ll think about it.

**MAKE A NEW PROPOSAL:** After you think about it, you can always make a new proposal. Perhaps you’ll think of a new approach that neither of you thought of before. Try it out. You can always propose anything. (But remember there are consequences to each proposal.) And you can always respond: “Yes.” “No.” or “I’ll think about it.” (And there are consequences to each of those choices, too.)

### **AVOID MAKING IT PERSONAL**

In the heat of the conflict, it’s easy to react and criticize the other person’s proposals—or even to criticize the other person personally, such as saying that he or she is arrogant, ignorant, stupid, crazy or evil. It’s easy and natural to want to say: “You’re so stupid it makes me sick.” Or: “What are you, crazy?” “Your proposal is the worst idea I have ever heard.” But if you want to end the dispute and move on, just ask for a proposal and respond “Yes” “No” or “I’ll think about it.”

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Bill Eddy is an attorney and therapist, and the Senior Family Mediator at the National Conflict Resolution Center in San Diego, CA. For information about NCRC’s mediation services, go to [www.ncrconline.com](http://www.ncrconline.com) or call 619-238-2400.

He is also the President of the High Conflict Institute and the author of *“It’s All Your Fault!”: 12 Tips for Managing People Who Blame Others for Everything*. For information about his books or seminars, go to: [www.highconflictinstitute.com](http://www.highconflictinstitute.com).



# Responding to Hostile Mail (B.I.F.F.)

By **Bill Eddy, LCSW, Esq.**

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*Hostile mail – especially email – has become much more common over the past decade. Most of this mail is just “venting,” and has little real significance. However, when people are involved in a formal conflict (a divorce, a workplace grievance, a homeowners’ association complaint, etc.) there may be more frequent hostile mail. There may be more people involved and it may be exposed to others or in court. Therefore, how you respond to hostile mail may impact your relationships or the outcome of a case.*

## **Do you need to respond?**

Much of hostile mail does not need a response. Letters from (ex-) spouses, angry neighbors, irritating co-workers, or attorneys do not usually have legal significance. The letter itself has no power, unless you give it power. Often, it is emotional venting aimed at relieving the writer’s anxiety. If you respond with similar emotions and hostility, you will simply escalate things without satisfaction, and just get a new piece of hostile mail back. In most cases, you are better off not responding. However, some letters and emails develop power when copies are filed in a court or complaint process – or simply get sent to other people. In these cases, it may be important to respond to inaccurate statements with accurate statements of fact. If you need to respond, I recommend a B.I.F.F. response: Be Brief, Informative, Friendly and Firm.

## **BRIEF**

Keep your response brief. This will reduce the chances of a prolonged and angry back and forth. The more you write, the more material the other person has to criticize. Keeping it brief signals that you don’t wish to get into a dialogue. Just make your response and end your letter. Don’t take their statements personally and don’t respond with a personal attack. Avoid focusing on comments about the person’s character, such as saying he or she is rude, insensitive, or stupid. It just escalates the conflict and keeps it going. You don’t have to defend yourself to someone you disagree with. If your friends still like you, you don’t have to prove anything to those who don’t.

## **INFORMATIVE**

The main reason to respond to hostile mail is to correct inaccurate statements which might be seen by others. “Just the facts” is a good idea. Focus on the accurate statements you want to make, not on the inaccurate statements the other person made. For example: “Just to clear things up, I was out of town on February 12<sup>th</sup>, so I would not have been the person who was making loud noises that day.”

Avoid negative comments. Avoid sarcasm. Avoid threats. Avoid personal remarks about the other’s intelligence, ethics or moral behavior. If the other person has a “high conflict personality,” you will have no success in reducing the conflict with personal attacks. While most people can ignore personal attacks or might think harder about what you are saying, high conflict people feel they have no choice but to respond in anger – and keep the conflict going. Personal attacks rarely lead to insight or positive change.

## **FRIENDLY**

While you may be tempted to write in anger, you are more likely to achieve your goals by writing in a friendly manner. Consciously thinking about a friendly response will increase your chances of getting a friendly – or neutral – response in return. If your goal is to end the conflict, then being friendly has the greatest likelihood of success. Don’t give the other person a reason to get defensive and keep responding.

This does not mean that you have to be overly friendly. Just make it sound a little relaxed and non-antagonistic. If appropriate, say you recognize their concerns. Brief comments that show your empathy and respect will generally calm the other person down, even if only for a short time.

## **FIRM**

In a non-threatening way, clearly tell the other person your information or position on an issue. (For example: “That’s all I’m going to say on this issue.”) Be careful not to make comments that invite more discussion, unless you are negotiating an issue or want to keep a dialogue going back and forth. Avoid comments that leave an opening, such as: “I hope you will agree with me that ...” This invites the other person to tell you “I *don’t* agree.”

Sound confident and don’t ask for more information, if you want to end the back-and-forth. A confident-sounding person is less likely to be challenged with further emails. If you get further emails, you can ignore them, if you have already sufficiently addressed the inaccurate information. If you need to respond again, keep it even briefer and do not emotionally engage. In fact, it often helps to just repeat the key information using the same words.

## **Example**

Joe’s email: “Jane, I can’t believe you are so stupid as to think that I’m going to let you take the children to your boss’ birthday party during my parenting time. Have you no memory of the last six conflicts we’ve had about my parenting time? Or are you having an affair with him? I always knew you would do anything to get ahead! In fact, I remember coming to your office party witnessing you making a total fool of yourself – including flirting with everyone from the CEO down to the mailroom kid! Are you high on something? Haven’t you gotten your finances together enough to support yourself yet, without flinging yourself at every Tom, Dick and Harry? ...” [And on and on and on.]

Jane: “Thank you for responding to my request to take the children to my office party. Just to clarify, the party will be from 3-5 on Friday at the office and there will be approximately 30 people there – including several other parents bringing school-age children. There will be no alcohol, as it is a family-oriented firm and there will be family-oriented activities. I think it will be a good experience for them to see me at my workplace. Since you do not agree, then of course I will respect that and withdraw my request, as I recognize it is your parenting time.” [And that’s the end of her email.]

Comment: Jane kept it brief, and did not engage in defending herself. Since this was just between them, she didn’t need to respond. If he sent this email to friends, co-workers or family members (which high conflict people often do), then she would need to respond to the larger group with more information, such as the following:

Jane: “Dear friends and family: As you know, Joe and I had a difficult divorce. He has sent you a private email showing correspondence between us about a parenting schedule matter. I hope you will see this as a private matter and understand that you do not need to respond or get involved in any way. Almost everything he has said is in anger and not at all accurate. If you have any questions for me personally, please feel free to contact me and I will clarify anything I can. I appreciate your friendship and support.” [And that’s it: B.I.F.F.]

## **Conclusion**

Whether you are at work, at home or elsewhere, a B.I.F.F. response can save you time and emotional anguish. The more people who handle hostile mail in such a manner, the less hostile mail there will be.

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