

Family Law Psychological Principles

AAML SoCal
Chapter Retreat
June 22, 2019

Presenter
Ronald S. Granberg

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Person

“character in a play”

(from Latin “*persona*”)

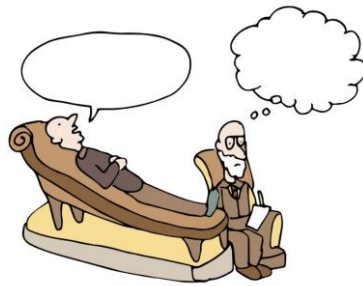
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Personality

A individual's characteristic behavioral, cognitive, and emotional patterns.



Personality Psychology

A scientific study of how biological and psychological forces affect individuals.



Personality Traits

(over 3,000 words in English)

5

5

Lexical Analysis

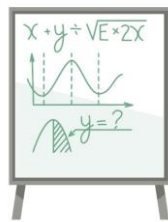
A Personality Psychology analysis based on the assumption that personality traits important to a group will become integral parts of the group's language.

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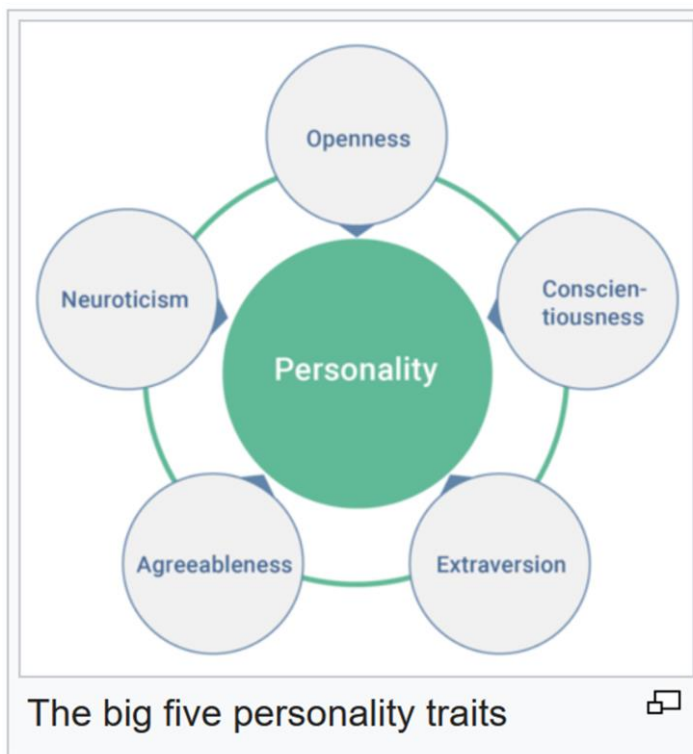
Factor Analysis

A statistical method that
correlates oodles of
variables in order
to identify a few (**basic**)
variables called “**factors.**”



Factor Analysis has
determined how many
BASIC
personality traits humans have:

5!



Openness
Conscientiousness
Extraversion
Agreeableness
Neuroticism

10

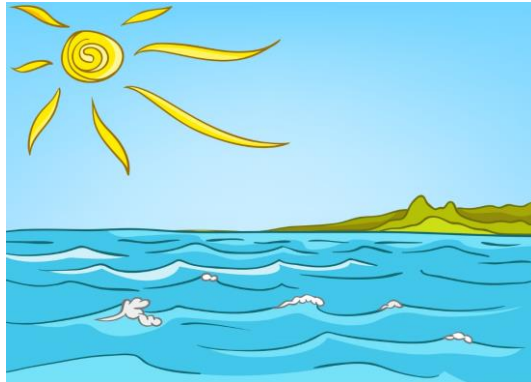
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~~O~~penness
~~C~~onscientiousness
~~E~~xtraversion
~~A~~greeableness
~~N~~euroticism

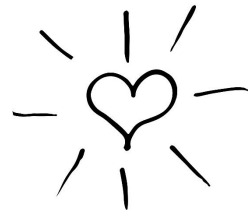
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11

O C E A N



Openness

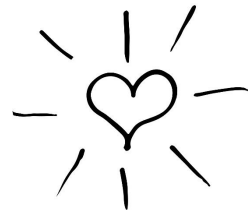


Inquisitiveness
Creativity
Aesthetic Appreciation
Unconventionality

Conscientiousness



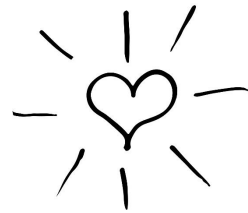
Organization
Diligence
Perfectionism
Prudence



Extroversion



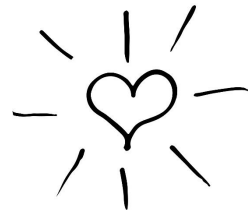
Social Self-Esteem
Boldness
Sociability
Liveliness



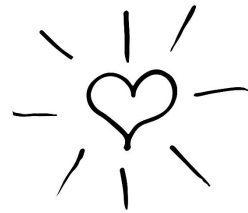
Agreeableness



Forgivingness
Gentleness
Flexibility
Patience



Neuroticism



Fearfulness
Anxiety
Dependence
Sentimentality

Big Five personality traits

From Wikipedia, the free encyclopedia

The **Big Five personality traits**, also known as the **five-factor model (FFM)** and the **OCEAN model**, is a taxonomy for [personality](#) traits.^[1] It is based on common language descriptors. When [factor analysis](#) (a statistical technique) is applied to [personality survey](#) data, some words used to describe aspects of personality are often applied to the same person. For example, someone described as [conscientious](#) is more likely to be described as "always prepared" rather than "messy". This theory is based therefore on the association between words but not on [neuropsychological](#) experiments. This theory uses descriptors of common language and therefore suggests five broad dimensions commonly used to describe the human [personality](#) and [psyche](#).^{[2][3]}

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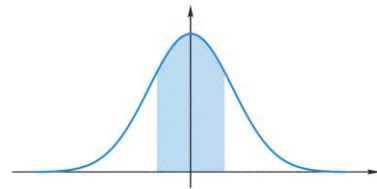
“Myers-Briggs Type Indicator”

	Subjective	Objective
Deductive	Intuition/Sensing	Introversion/Extraversion
Inductive	Feeling/Thinking	Perception/Judging


puts **types** in boxes



In contrast, the Big 5
personality **traits**
fall along a
bell-shaped curve





The Big 5 personality traits can be  seen in chimpanzees.

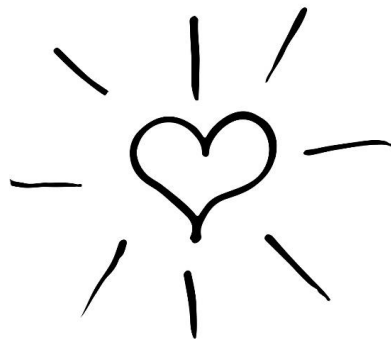
Self-awareness?



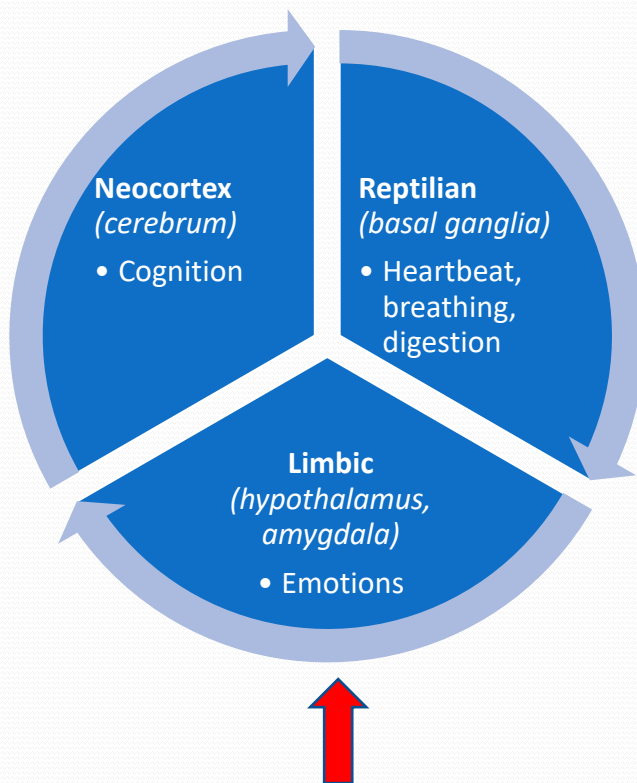
Ape: **YES**

Elephant: **YES**

Opposing counsel: **NO**

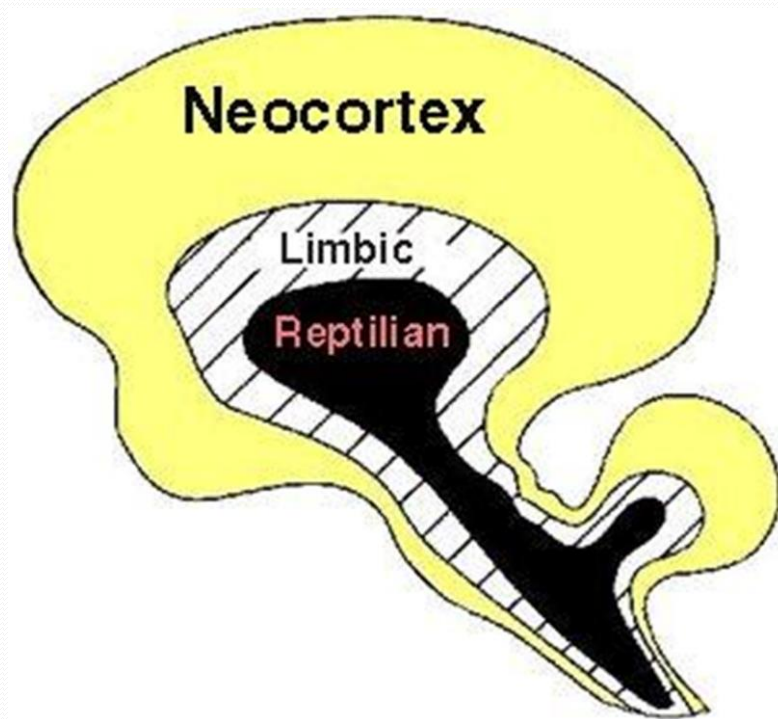


Emotions are controlled
by the Limbic System



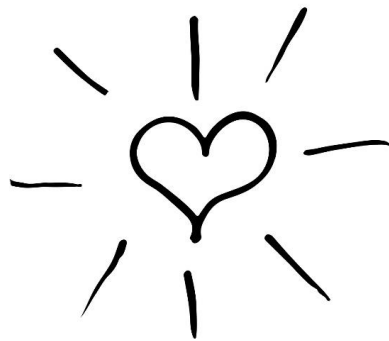
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Our emotions are designed to
respond immediately so we can:

escape a danger find a food woo a mate

25

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Controlled by jolts and juices

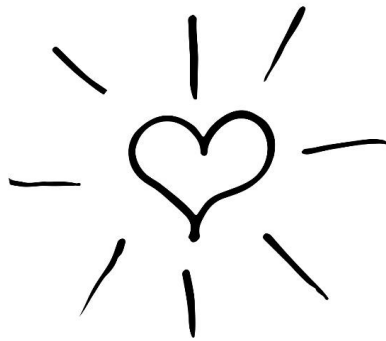
Serotonin – neurotransmitter produced in neurons, alimentary canal

Endorphin – neurotransmitter produced in pituitary gland, hypothalamus

Dopamine – neurotransmitter produced in neurons

Cortisol – hormone produced in adrenal cortex

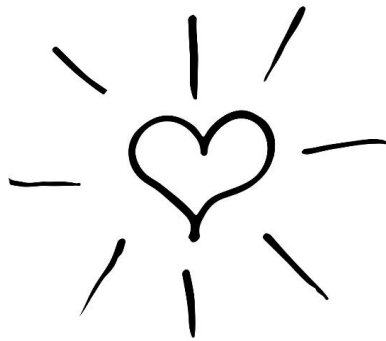
Epinephrine – neurotransmitter/hormone produced in neurons, adrenal medulla



**there is more than one
POSITIVE EMOTION**

Acceptance	Ecstasy	Joy
Affection	Empathy	Kindness
Amusement	Enthusiasm	Love
Anticipation	Euphoria	Passion
Awe	Gratification	Pleasure
Confidence	Gratitude	Pride
Contentment	Happiness	Self-confidence
Courage	Hope	Trust
Curiosity	Interest	Wonder

27 positive emotions



**there is more than one
NEGATIVE EMOTION**

Anger	Distrust	Outrage
Angst	Envy	Panic
Anguish	Fear	Rage
Annoyance	Frustration	Regret
Anxiety	Greed	Rejection
Apathy	Grief	Remorse
Boredom	Guilt	Resentment
Contempt	Hatred	Sadness
Cruelty	Horror	Shame
Depression	Hostility	Sorrow
Despair	Humiliation	Suffering
Disappointment	Jealousy	Worry
Disgust	Loneliness	

38 negative emotions

Anxiety Fear Guilt Disgust Anger

*consider, for example,
five negative emotions*

Anxiety Fear Guilt Disgust Anger



Negative emotions
can be **ADAPTIVE** . . .

. . . or
MALADAPTIVE

Anxiety Fear Guilt Disgust Anger

your
perception
determines
your
reaction



Negative emotions
can be **ADAPTIVE**

Perception**Emotion****Reaction**

Present harm

Fear

Stop present harm

Future harm

Anxiety

Plan to avoid harm

Opposition

Anger

Attack opposition

Yucky object

Disgust

Avoid object

You did wrong

Guilt

Repair damage

Bad event

Pain

Stop event

*Sensation created
physically or emotionally*

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Anxiety Fear Guilt Disgust Anger



Negative emotions can
be **MALADAPTIVE**

United States death rate



5 per year



100 per day

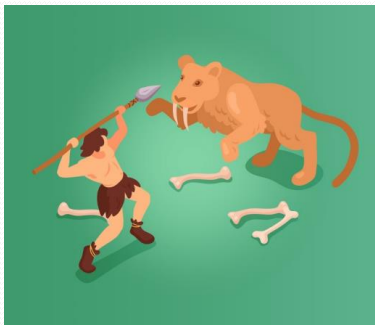
Scary?



Scary!



(not scary)



“Immediate return
environment”

Acute stress
(fear)



“Delayed return
environment”

Chronic stress
(anxiety)

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“Immediate Return Environment”



“Die, not die?”
(now)

“Eat, not eat?”
(now)

“Mate, not mate?”
(now)

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“Delayed Return Environment”



“Acquire, not acquire?”
(next week)

“Relocate, not relocate?”
(next year)

“Retire, not retire?”
(30 years)

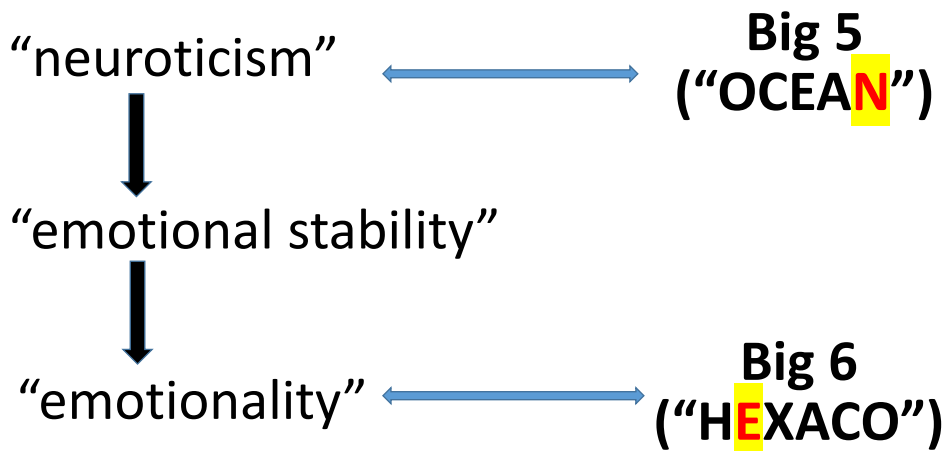
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Anxiety Fear Guilt Disgust Anger

*[NEUROTICISM
RENAMED]*

Anxiety Fear Guilt Disgust Anger



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“Positive affectivity”:

- the **tendency** a person has to experience positive emotions
- the **degree** (intensity, duration) to which the person experiences the positive emotions

“Negative affectivity”:

- the **tendency** a person has to experience negative emotions
- the **degree** (intensity, duration) to which the person experiences the negative emotions

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High positive affectivity and high negative affectivity both have **strong genetic components**.

A person with **high positive affectivity**:

- frequently experiences positive emotions of substantial strength and duration
- usually maintains an optimistic outlook, focusing on life's opportunities and rewards

A person with **high negative affectivity**:

- frequently experiences negative emotions of substantial strength and duration
- usually maintains a pessimistic outlook, focusing on life's risks and punishments

[Note to self: try empathy]

Neurotics (having high negative affectivity):

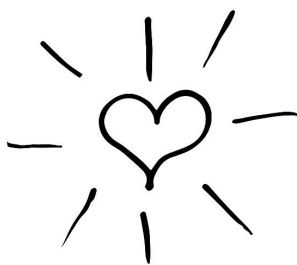
- live shorter lives, being especially prone to compromised immune systems and heart disease
- overreact to criticism, failures, mistakes, embarrassments, and rejections
- feel vulnerable, obsessing over bad things that might happen
- are needy and dependent, requiring emotional support from other people
- are unhappy with their incomes, jobs, co-workers, mates – and divorce lawyers!

Anxiety Fear Guilt Disgust Anger

People with high neuroticism indices are at risk for onset and development of conditions such as depression, anxiety disorders, substance use disorders, eating disorders, mood disorders, and bipolar disorder.

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Heritability

Genotype: An organism's genetic composition.

Phenotype: An organism's characteristics.

Heritability: The extent to which phenotypic difference results from genotypic variance. Shown in a range from 0.0 to 1.0.

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Heritability of Big Five personality characteristics:

Openness .57
Conscientiousness .49
Extraversion .54
Agreeableness .42
Neuroticism .49

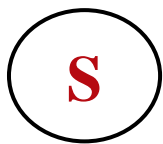
Heritability of a person's attitude toward:

Playing organized sports .00
Doing crossword puzzles .02
Riding roller coasters .37
Organized religion .45
Death penalty .50

50

50

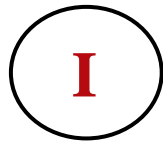
Freud's Three Personality Structures



Superego



Ego



Id

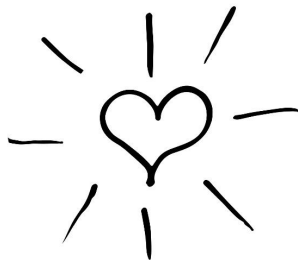
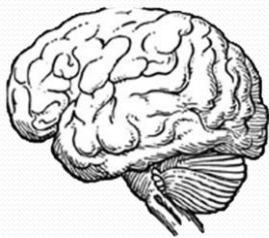
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Are psychological theories credible?
Is this Kool-Aid safe to drink?
(Perhaps we should tread carefully. Let's begin with skepticism.)

*[Presenter transparency:
As a college Junior, I had a disturbing personal experience with psychology.]*





Disrespecting Psychology: Historical Perspective

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Psychiatrist Thomas Szasz

A disease is a malfunction of the body.



Because disease is something people “have” –
whereas behavior is something people “do” –
no behavior can be a “disease.”



“Mental illness” is a metaphor that describes
socially-offending or socially-vexing conduct.

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Szasz (cont'd.)

“Heart attack” and “heart break” belong in two completely different logical categories.

Although diagnoses of mental disorders are passed off as "scientific categories," they are in actuality merely judgments used to support the exercise of power by psychiatric authorities.

Psychiatrists seek to be successors to the priests (the “soul doctors”) dealing with the spiritual conundrums, dilemmas and vexations – the “problems in living” – that have troubled humans since the advent of conscious thought.

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Historical Perspective

- The allegorical 15th Century “ship of fools” was replaced with anti-psychotics and procedures such as electroconvulsive therapy and psychosurgery
- Unacceptable conduct (such as alcoholism) has been condemned and “punished” by:
 - Church (as **sin**)
 - State (as **crime**)
 - Mental Health System (as **illness**)

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Historical Perspective

A wife refusing to obey her husband was diagnosed with *hysteria* (disturbance of uterus).

In 1851, American physician Samuel A. Cartwright “discovered” *drapetomania* – the mental illness that caused enslaved persons to flee captivity.

In 1974, the American Psychiatric Association’s membership voted 58% to 42% to delete the homosexuality DSM illness category.

The autistic community’s term “neurodiversity” may prove is useful in the field of “identity politics.”

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The Golden Rule

Pharmaceutical companies routinely fund psychiatric organizations' meetings and research

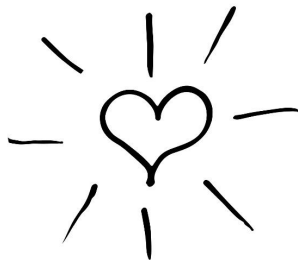
The number of psychiatric drug prescriptions have been rising at exponentially-increasing rates, and show no sign of abating

In the U.S., antidepressants and tranquilizers are now the top-selling classes of prescription drugs

An ADHD diagnosis due to "inattention at school" raises concerns about using psychoactive drugs for oppressive social control of children

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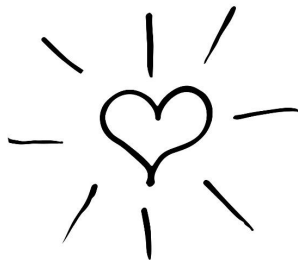
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Disrespecting Psychology: Personal Perspective

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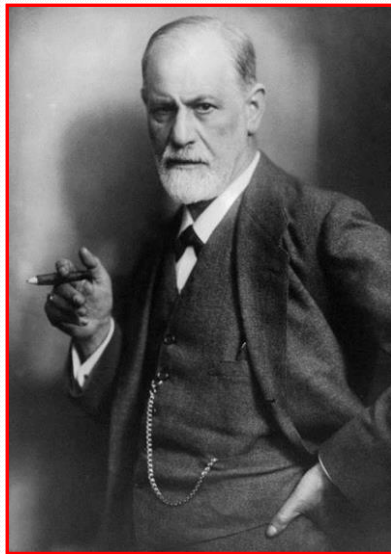


Forgiving Freud

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Sigmund's "Big 3"



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Freud's Three Personality Structures

S

Superego

E

Ego

I

Id

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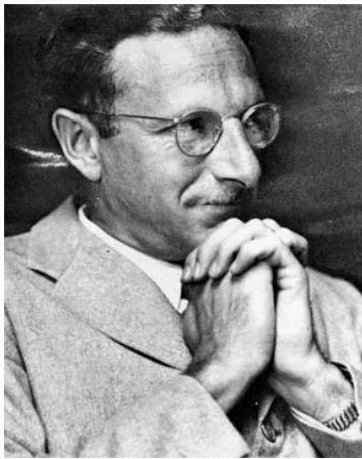
Is the “three-part
personality model”
a bunch of baloney?



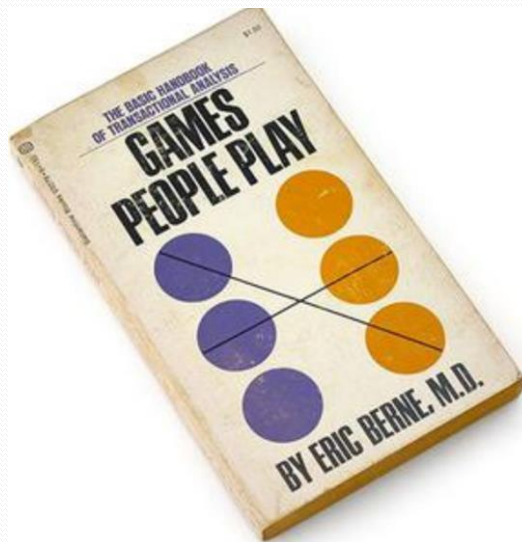
Statistician George Box:

"All models are wrong,
but some are useful."

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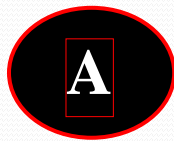
Eric Berne
(1910 – 1970)



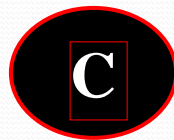
Transactional Analysis: Three Personality Structures



Parent



Adult



Child

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Transactional Analysis: Three Personality Structures

P

Exteropsyché

A

Neopsyché

C

Archeopsyché

66

66

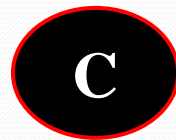
Transactional Analysis: Three Personality Structures



Nurture



Personality



Nature

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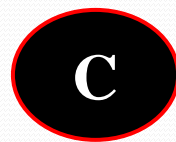
Transactional Analysis: Three Personality Structures



Rules



Society



Needs

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(Hey! Is this IRAC?)

P

Law

A

Ruling

C

Facts

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Posture

- **Parent**
Leaning forward, impatient, finger-pointing
- **Adult**
Attentive, interested, sitting straight, non-threatening, non-threatened
- **Child**
Squirmy, giggly, angry, sulky

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Speech

- **Parent**
Judgmental, critical,
“always/never,” patronizing
- **Adult**
Reasoned statements, comparisons,
“what/who/where/why/how”
- **Child**
I want, I need, I wish, “baby talk”

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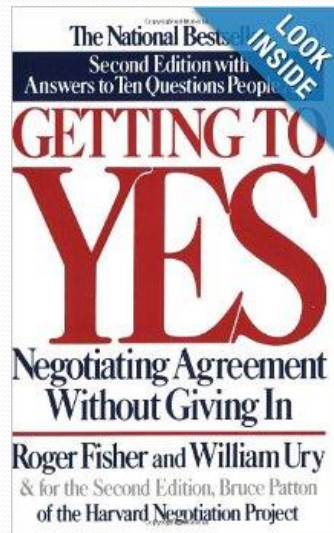
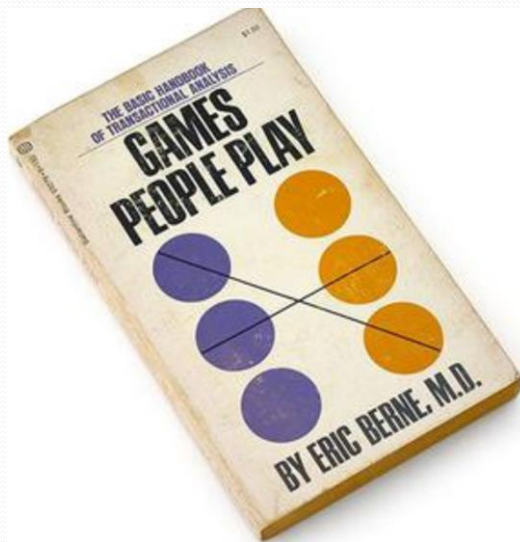
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About Eric Berne

- Like Kübler-Ross and Bowlby, Berne worked with WW II orphans
- Applied game theory to psychology
- Stroke = unit of interpersonal attention
- (A smack can be better than no stroke)
- (*stroke count example*)
- Similar to Harvard's *Getting to Yes*

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different books,
same sage advice

Active Listening

"Let me repeat back what you said to make certain I understand your position."

"Did I misunderstand anything?"

"I'm interested in hearing more about your assertion that _____."

"If I represented your client, I would make the same contention you just made."

"I can see the validity of _____."

"Help me understand why _____."

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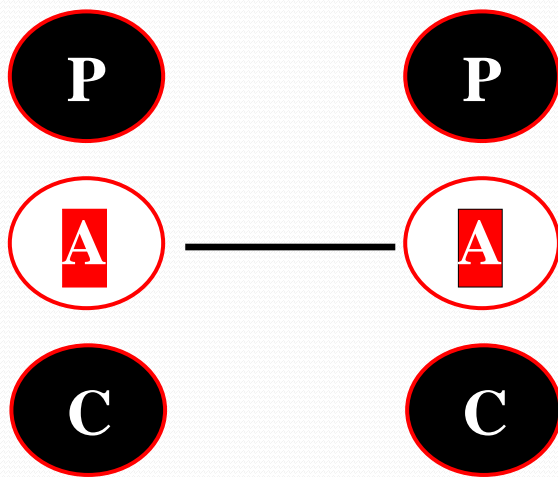
Effective persuasion technique: Eating crow



75

75

A Pastime: Adult-Adult Transaction



76

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“Pastimes”

- “do you know...?”
- “how much?”
- “ever been...?”
- “who won?”
- “ain’t it awful?”
- “balance sheet”
- “what happened to...”

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A "Game"

"Game":

An ongoing series of complementary ulterior transactions progressing to a predictable outcome

The Game's Bad Faith, "Split-Level" Construction:

Ostensibly an Adult-Adult transaction

Actually a Parent-Child or Child-Parent transaction

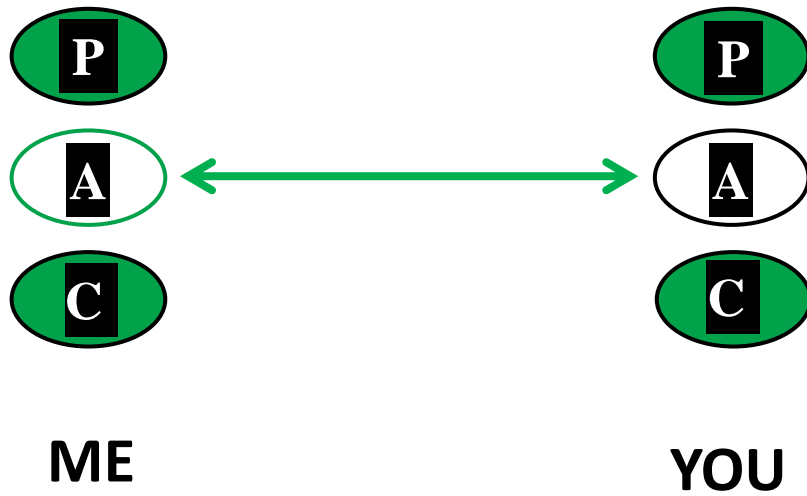
The Game's "Payoff" Goals:

Emotional reward, strategic advantage

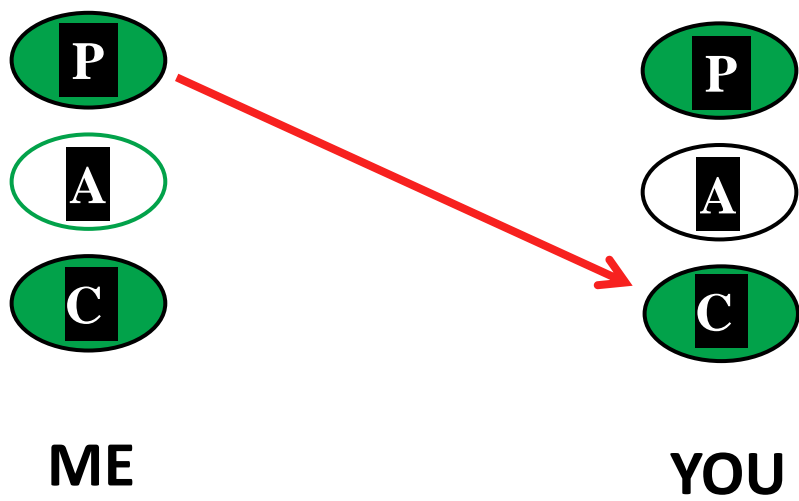
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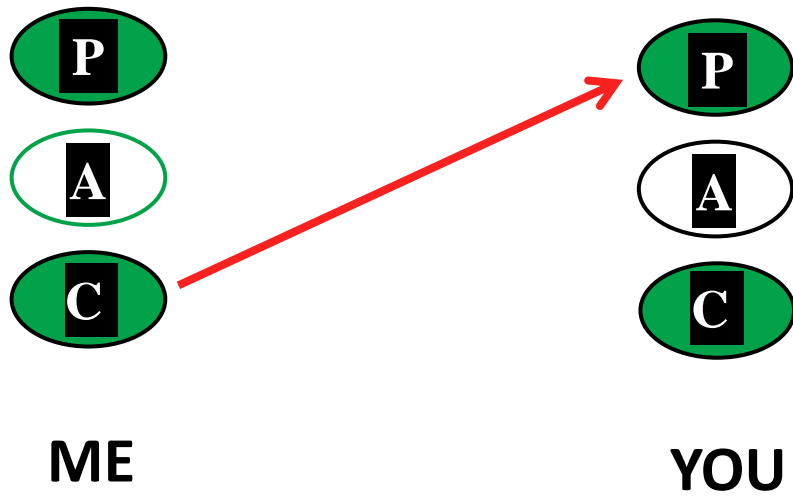
Good Faith Transaction



Bad Faith Attack



Bad Faith Attack



IDEA:
let's test drive the "three-part
personality system" on a
familiar issue: aggression . . .

. . . and see whether the
model is baloney

the two kinds of aggression:

overt aggression



passive aggression



family law is . . .

a hotbed of
overt aggression

and

a petri dish of
passive aggression



A good model
furthers understanding.

The “three-part
personality system” will
prove useful as a model if it
helps us understand
aggression

The Game of "Gotcha" is OVERT Aggression

The ten-page Client declaration you drafted contains one inadvertent misstatement.

I arrive at your office uninvited, then vilify your Client and you – in front of your staff!

Ostensibly: Adult-Adult (I point out your error)

Actually: My Parent assaults your Child

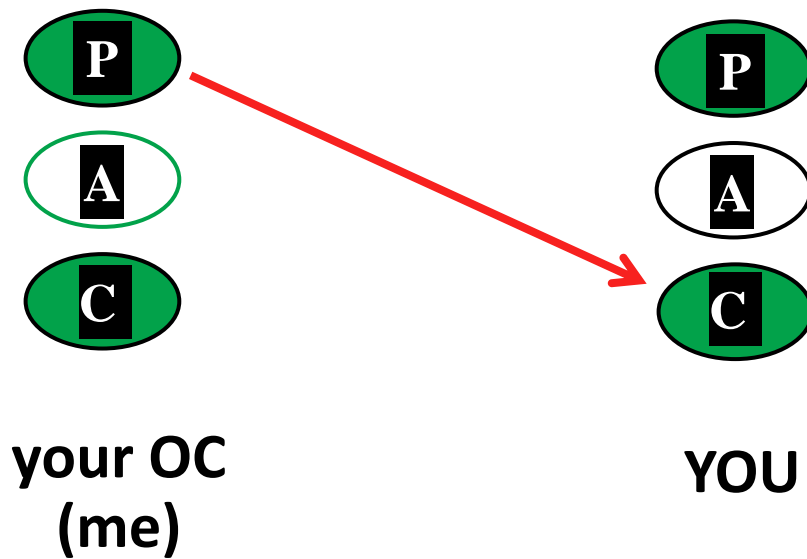
Payoffs:

- I unleash my anger on you, with impunity
- I assert my power over you and your Client

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Overt Aggression Attack



The Game of "Oops" is PASSIVE Aggression

I am a social guest at your house party. I spill:

- Guacamole on table cloth ("*that's all right*")
- Coffee on couch ("*it happens all the time*")
- Red wine on white carpet ("*don't worry*")

Ostensibly: Adult-Adult (I'm clumsy, apologize)

Actually: My Child assaults your Parent

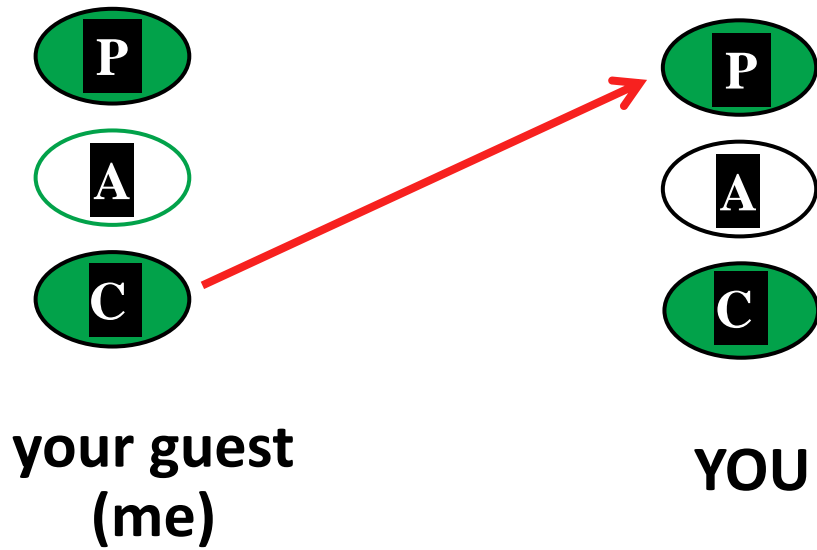
Payoffs:

- I infuriate you, with impunity
- I assert my power over you

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Passive Aggressive Attack



Why is our family law
community a petri dish of
passive aggression?

Because your OC can
easily play "Oops –
using OP as an excuse!

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My litigation passive aggression against you

I, your OC:

- Serve 120 RFA's, 190 special rogs
- File repeated sanctions requests
- Calendar an ex parte hearing the day of your daughter's graduation ceremony

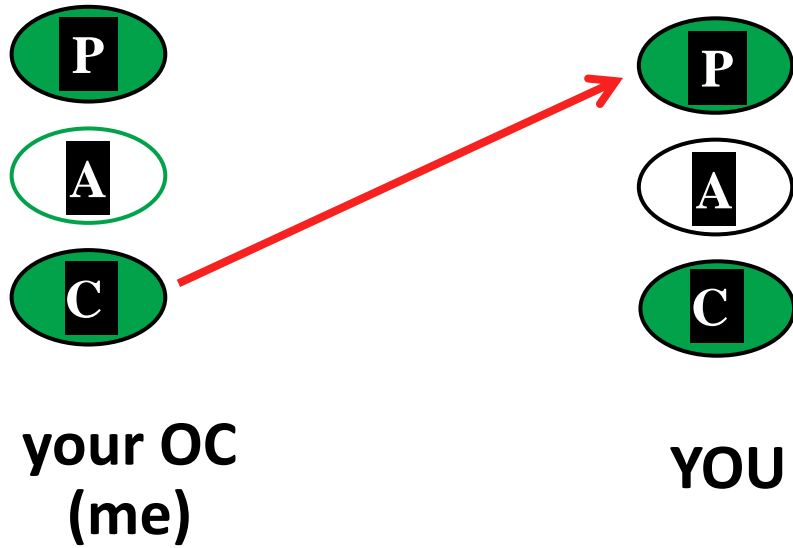
Then what do I tell you?

- "You and I are friends – don't blame **me!**"
- "These attacks aren't **my** fault!"
- "I **must** do as my **client** instructs!"

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Passive Aggressive Attack



Overt Aggression

**My INFURIATED PARENT
assaults your Child**

**I deliver my attack with
OBVIOUS RELISH**



**My attack is unfair,
destructive, HONEST**

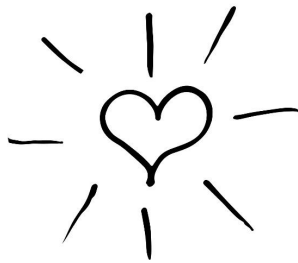
Passive Aggression

**My INFURIATING CHILD
assaults your Parent**

**I deliver my attack with
FEIGNED RELUCTANCE**

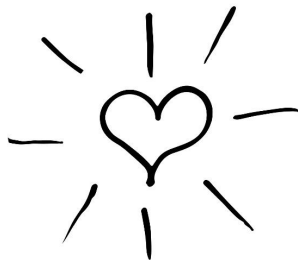


**My attack is unfair,
destructive, DISHONEST**



Okay, so I guess I have
partially forgiven Freud

(“Cocktail Party Phenomenon”)



Hierarchy of Needs

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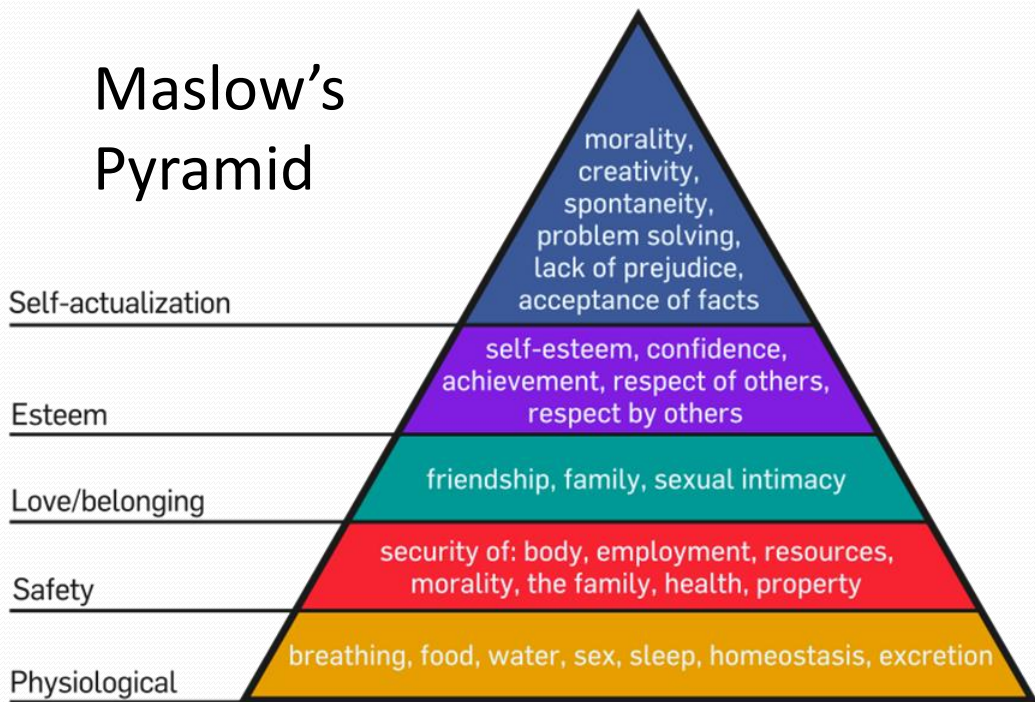
Abraham Maslow, M.D.



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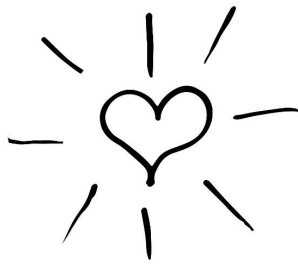
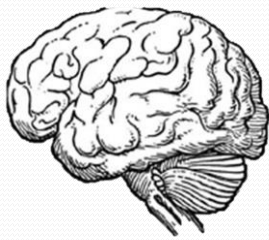
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Maslow's Pyramid



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Five Stages of Grief

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Elisabeth Kübler-Ross, M.D.



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Five Stages of Grief

- Denial
- Anger
- Bargaining
- Depression
- Acceptance

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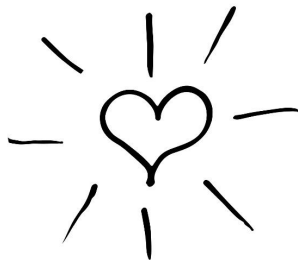
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Five Stages of LITIGATION

- Denial
- Anger
- **LAWYERING UP**
- Bargaining
- **BANKRUPTCY**

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Cycle of Abuse

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Lenore Walker, Ed.D.



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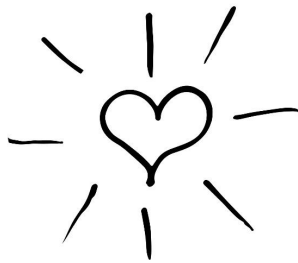
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Cycle of Abuse

- Tension building
- Incident
- Honeymoon
- Calm

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Attachment Theory

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John Bowlby, M.D.



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Attachment Theory

Analyzes the dynamics of long-term human relationships

Central tenet – an infant needs to develop a relationship with at least one primary Caregiver for social and emotional development to occur normally

The United Nations asked Bowlby to write a report on World War II orphans

Bowlby formulated “attachment theory”

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Safe Haven/Secure Base

A Caretaker should strike a balance between:

Inhibition

- Caregiver as “Safe Haven”
- Caregiver welcomes Child home

Independence

- Caregiver as “Secure Base”
- Caregiver supports Child’s exploration

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A Child's Four Attachment Styles

Secure Attachment

Styles of Insecure Attachment:

Avoidant

Ambivalent (“Ambivalent-Resistant”)

Disorganized

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Harry Stack Sullivan, M.D.



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Self System

GOOD ME

I acknowledge something
I *like* about myself

BAD ME

I acknowledge something
I *don't like* about myself

NOT ME

I **refuse** to acknowledge something
I *REALLY don't like* about myself

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Self System

GOOD ME

- “Ego syntonic”

BAD ME

- “Ego syntonic”

NOT ME

- “Ego dystonic”
(aka “ego alien”)

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Coping Mechanisms

We humans seek to avoid:

- Uncertainty
- Uncomfortable self-awareness
- Cognitive dissonance

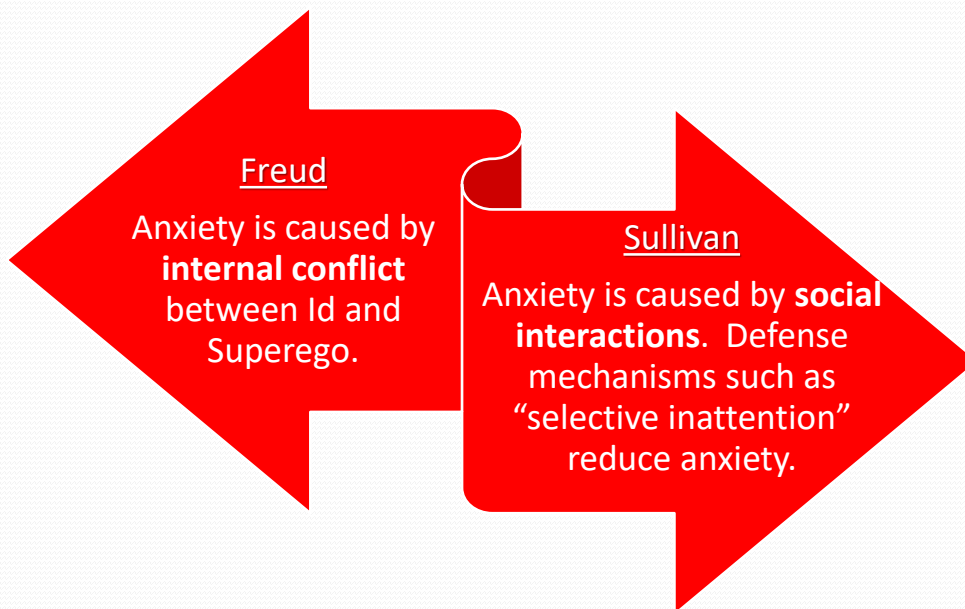
We humans practice:

- Heuristic decision-making
- Denial ("Not Me")
- Confirmation bias

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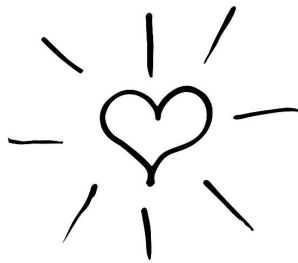
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Sullivan disputed Freud



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Self-control

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“Marshmallow Experiment”

Stanford University Professor Walter Mischel performed the first such test in 1970 on groups of children aged 7-9. Children were given one treat immediately, or two treats if they delayed gratification for 15 minutes.

Multiple subsequent studies have correlated a child's delayed gratification ability with:

- higher self-esteem
- better health (e.g., lower obesity)
- elevated SAT scores
- less risky behavior (less reckless driving, unprotected sex, drugs, shoplifting)

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Self-control predicts class grades better than intelligence does.

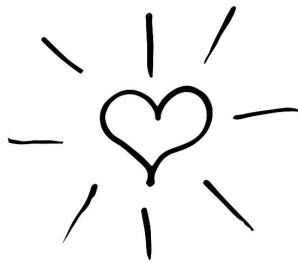
One study showed that – of 32 factors studied – self-control was the only valid indicator of grade point average in college students.

Self-control helps people get along with others.

Of all factors, your ability to control your own behavior is probably the most significant factor in the success of your life.

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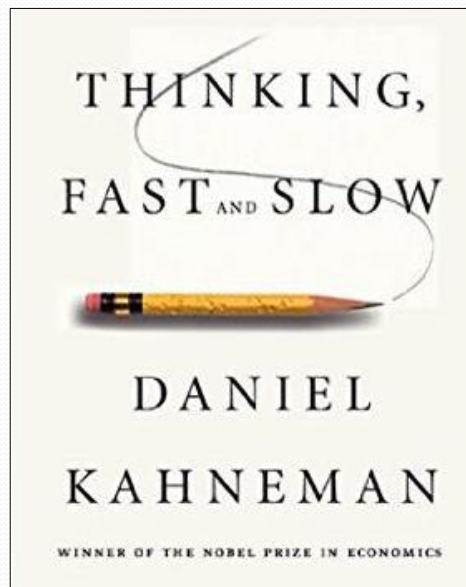
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Kahneman's System One, System Two

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Daniel Kahneman

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- “Law of least effort” – habits preserve energy
- When a habit forms, control shifts from the conscious brain to the sensory motor network
- Brain is lazy, loves efficiency and shortcuts
- System One loves heuristics, stereotypes, biases
- Only if System One is unable to handle a problem is System Two activated
- Solving a mathematical problem is difficult: blood pressure elevates, muscles tense
- Physical activity and System Two draw from the same energy source (Israeli judge example)

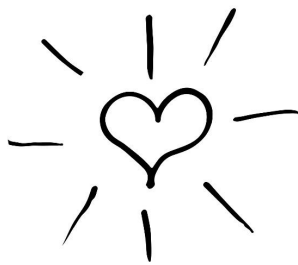
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- “What you see is all there is”
- System One is in the business of believing things
- System Two is in the business of doubting things and putting them to cognitive tests
- Linda Principle:
 - “Linda” was described as having liberal tendencies
 - Subjects considered “Linda is a bank teller who supports feminism” *more likely* than “Linda is a bank teller”
 - Illustrates important role of emotion in belief

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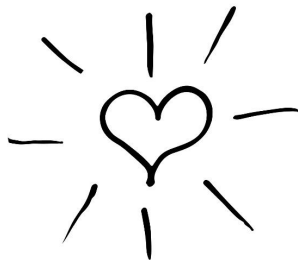
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Behavior Control with “BIS” and “BAS”

The term “approach-avoidance conflict” was coined by psychologist Kurt Lewin in his 1935 book *A Dynamic Theory of Personality*. In 1970, psychologist Jeffrey Gray defined and analyzed two behavior-control systems:

- Behavioral Inhibition System (“BIS”)
 - “avoidance,” responds to punishment
- Behavioral Activation System (“BAS”)
 - “approach,” responds to reward



Learning

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Learning described four ways

Experiential learning:
go screw things up

Observational learning:
watch me screw things up

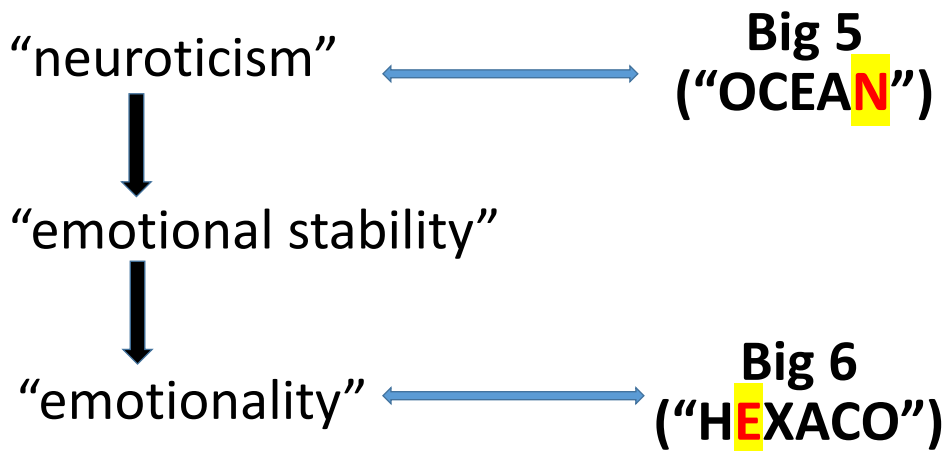
Operant conditioning:
reward or punishment

Classical conditioning: pair a previously-neutral
stimulus (bell) with a biological stimulus (food)

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Anxiety Fear Guilt Disgust Anger



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Honesty/humility
Emotionality
eXtraversion
Agreeableness
Conscientiousness
Openness

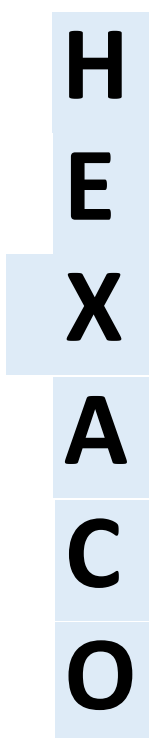
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~~Honesty/humility~~
~~Emotionality~~
~~eXtraversion~~
~~Agreeableness~~
~~Conscientiousness~~
~~Openness~~

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HEXACO model of personality structure

From Wikipedia, the free encyclopedia

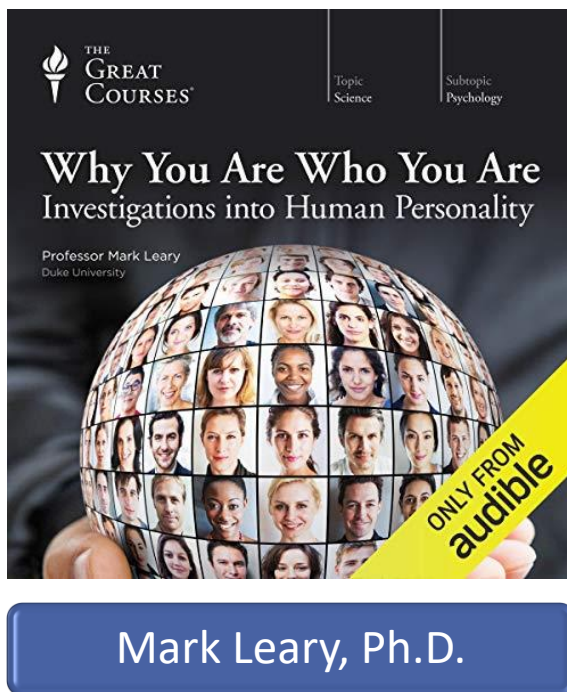
The **HEXACO** model of personality structure is a six-dimensional model of human personality that was created by Ashton and Lee and explained in their book, *The H Factor of Personality*, based on findings from a series of lexical studies involving several European and Asian languages.

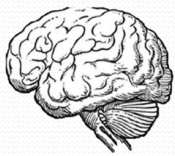
The six factors include Honesty-Humility (H), Emotionality (E), Extraversion (X), Agreeableness (A), Conscientiousness (C), and Openness to Experience (O). Each factor is composed of traits with characteristics indicating high and low levels of the factor.

The HEXACO model is unique mainly due to the addition of the Honesty-Humility dimension.

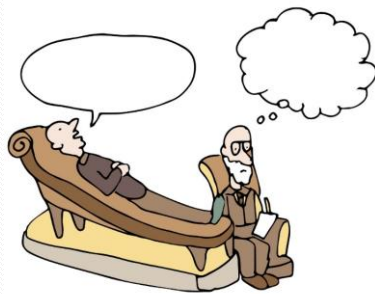
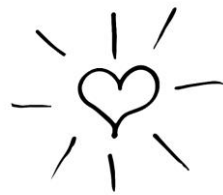
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The
End



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