

# Maintaining High Levels of Attorney Performance:

*The impact of depression and anxiety on critical thinking, and how to address*

Steven Flannes, Ph.D.

[www.flannesandassociates.com](http://www.flannesandassociates.com)

[stevenflannes@att.net](mailto:stevenflannes@att.net)

## My Background

- Clinical psychologist: private practice
- Organizational consultant in areas of individual performance improvement
- Consultant to Lawyer Assistance Program (CA State Bar) for 20+ years
- Author of books on interpersonal leadership and performance improvement
- Seminar provider: US & Canada, as well as London, Poland, and Ukraine

## Our Goals Today

- Lawyer Assistance Program
- Causes & indicators of depression
- Why depression & anxiety for attorneys? (functional & personality filters)
- Diagnostic and Statistical Manual
- Brain functioning and depression
- **Critical thinking**: Hard enough even in good times

## Our Goals Today

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- Yerkes-Dobson Curve & performance
- Nine depression-related processes hindering critical thinking
- Seven approaches to reducing depression and improving critical thinking
- Men & women and depression
- Suicide risks by profession
- Emergency resources for peers and leaders
- Leaders addressing depression of team member: best practices

## Lawyer Assistance Program (State Bar of California)

Provided for lawyers, State Bar applicants, and law students who are grappling with issues such as:

- Stress, anxiety, and depression
- Substance abuse
- Concerns about their career

### Goals:

1. Achieve optimal levels of performance
2. Maintain integrity of profession and its relationship to the public

## Lawyer Assistance Program (State Bar of California)

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### Program Aspects:

- Confidentiality
- Counselors provide no-cost assessment and resource recommendations
- Program counselors are independent practitioners who have ongoing contractual relationships with the LAP
- Counselors are located throughout California

<http://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program>

## What Causes Depression?

- Changes in the body's chemistry influence mood and thought processes.
- Biological factors can also cause depression.
- Depression may indicate mental and emotional aspects of a person's life are out of balance.

Endogenous depression: “From within” (melancholily temperament)

Exogenous depression: “From without” (situational or reactive)

(Different neural pathways may be in play)

*Source: American Psychological Association*

## Depression Indicators:

- Talks about disappearing, dying, or committing suicide
- Trouble eating or sleeping
- Withdraws from friends or social activities
- Loses interest in work or hobbies
- Prepares for death by writing a will and making final arrangements
- Gives away prized possessions
- Attempted suicide before
- Unnecessary risks
- Recently experienced serious losses
- Preoccupied with death and dying
- Loses interest in personal appearance
- Increases alcohol or drug use
- **Cognitive functioning deteriorates in some form**

## Depression and attorneys - many studies over the years

1990

2018

## Why depression and anxiety for attorneys?

### Aspects of profession:

### Possible impact on individual:

- |                                                    |   |                                        |
|----------------------------------------------------|---|----------------------------------------|
| 1. Constant scanning of environment                | → | Heightened CNS arousal: chronic stress |
| 2. Paid, in part, to focus on “worst case outcome” | → | Rumination, cognitive “looping”        |
| 3. Extreme hours                                   | → | Physical and emotional fatigue         |

## Why depression and anxiety for attorneys?

*continued*

### Aspects of profession:

### Possible impact on individual:

- |                                                       |   |                                             |
|-------------------------------------------------------|---|---------------------------------------------|
| 4. Clients who may not understand the “legal product” | → | Frustration, anger ?                        |
| 6. SME and business development                       | → | Cognitive complexity & “out of type” focus  |
| 5. Technology overload & response expectations        | → | Sensory overload, and “task shifting costs” |
| 6. ?                                                  |   |                                             |
| 7. ?                                                  |   |                                             |

## Possible personality traits of attorneys that may contribute to emotional challenges: Based upon *my* experience

- Focus on intellect over emotion
- Competitive with peers, opposition, and arbitrary standards
- High confidence that their intellect will carry the day
- Maladaptive Type A behavior
- Quite vigilant
- Grandiosity that may preclude asking for help
- Millennials: higher incidence of narcissism than the general population (Rate of discipline by State Bar is steeply increasing)
- Self-concepts often conceptualized in all-or-nothing terms, and are in flux
- Intellectually robust and flexible in their view of solving professional problems but are cognitively self-limiting when faced with solving personal (i.e. emotional) problems
- When psychologically stressed or emotionally upset, they work harder, as compared to stepping back and seeking perspective. A “chasing bad money with good” scenario.
- Under stress and emotional discomfort, they tend to isolate, turn to their own resources, and experience shame and self-criticism if their individual approaches are unsuccessful.

## Definitions: Diagnostic and Statistical Manual

### *Depression:*

1. Depressed mood
2. Diminished interests or pleasure
3. Weight loss/gain; appetite increase/decrease
4. Reduction: physical movement
5. Fatigue
6. Feelings of worthlessness
7. **Diminished concentration skills**
8. Self-destructive thoughts

### *Anxiety:*

1. Excessive worry or anxiety
2. Hard to control the worry  
(and at least 3 of the following symptoms):
3. Edginess or restlessness
4. Easily fatigued
5. **Concentration issues**
6. Irritability & poor sleep
7. Muscle aches/soreness

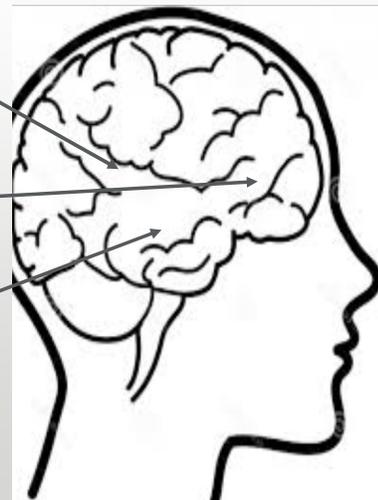
## What parts of brain are impacted by depression & anxiety?

**Hippocampus:** responsible for memories

**Prefrontal Cortex:** emotion, decisions, memory consolidation

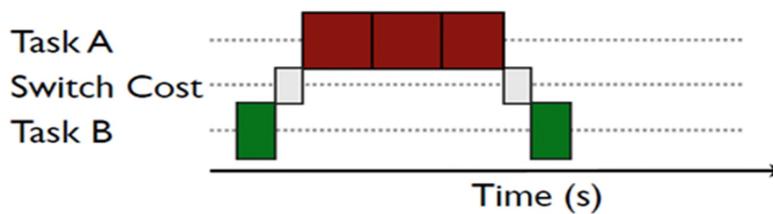
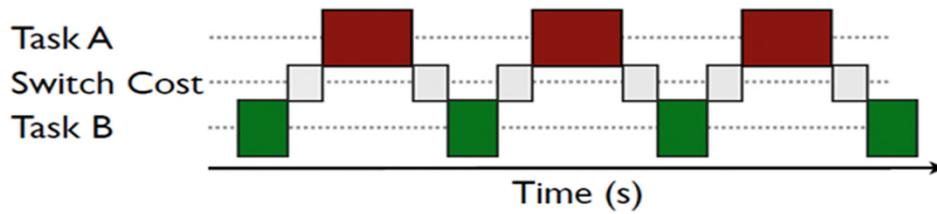
**Amygdala:** emotional learning, behavior, emotional valence (+ or -)

➔ **Critical Thinking is then impacted**

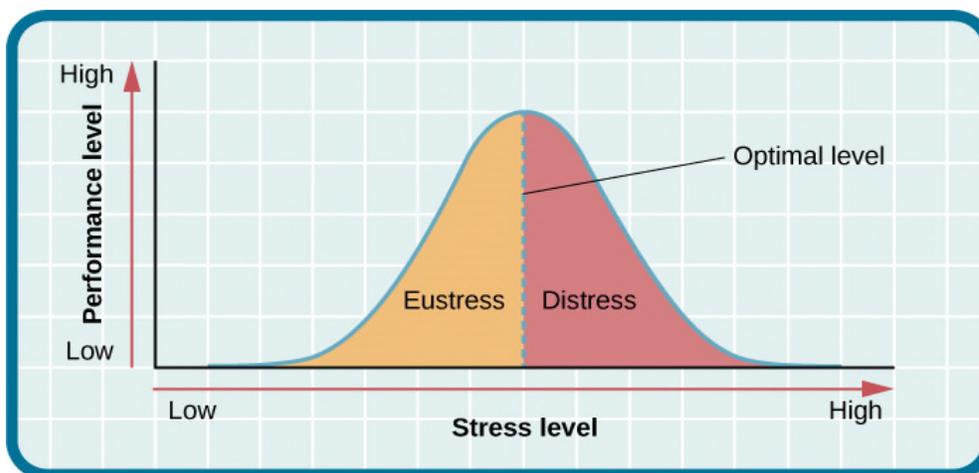


## The costs on critical thinking of task shifting

*Critical thinking will be hindered*



## Yerkes-Dobson Curve: Sudden, dramatic decreases in performance



**Critical thinking is impaired because of these depression-stress resulting experiences: *My clinical experience***

1. Negative self-talk
2. All-or-none thinking
3. Decreased responsiveness to positive valence data: negativity bias
4. “Time travel” and anticipatory anxiety

**Critical thinking: Also hindered by these resulting conditions**

5. Executive function issues:
  - \* Tracking, prioritization, decision making
6. Attention to complexity: “task shedding”
7. Short and long-term memory deficits
8. Psychomotor retardation & speed
9. Emergence of “hot” cognitions & “cold” cognitions

## Specific approaches and resources to reduce depression and anxiety

1. Craft a neutral cognition
2. Non-judgmental self-awareness
3. Sort actions by control/no control categories
4. Short-term time perspective (example)
5. Create oft-used self-talk: “*A thought is just a thought.*”
6. US Olympic team: Focus on *behavior*, not *outcome*
7. Mindfulness-Based Stress Reduction (MBSRP): Jon Kabat-Zinn (2016)

## Men and Depression

Nadeau (2016)

- 70% of men exhibiting symptoms of depression did not describe themselves as “depressed.”
- Men who use traditionally “masculine” approaches to handling emotional issues are less likely to successfully address their depression

Source: Nadeau (2016)

## Women and Mindfulness (MBSR)

Lessons for all of us

Research context:

Previous studies had shown that attorneys often experience symptoms of depression and anxiety.

Research hypothesis:

Can participation in an 8-week, virtual program involving mindful meditation exercises result in reductions in depression and anxiety measures in attorneys?

Subjects: 46 female attorneys

Source: Minda, et al (2016)

## Women and Mindfulness (MBSR)

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Results:

1. *Reductions* in self-reported depression, anxiety, stress, and negative mood
2. *Increase* in self-reported positive mood and psychological resilience
3. Web-based platforms are viable for personal growth

Lessons for all of us. “Tend and befriend”

## **Risk Indicators for Suicide:    Be concerned if someone you know:**

- Talks about disappearing, dying, or committing suicide
- Trouble eating or sleeping
- Withdraws from friends or social activities
- Loses interest in work or hobbies
- Prepares for death by writing a will and making final arrangements
- Gives away prized possessions
- Attempted suicide before
- Unnecessary risks
- Recently experienced serious losses
- Preoccupied with death and dying
- Loses interest in his or her personal appearance
- Increases alcohol or drug use.
- Cognitive functioning deteriorates

## **Suicide:**

Some startling facts about suicide:

- 10<sup>th</sup> leading cause of death overall in the United States
- 2<sup>nd</sup> leading cause of death for ages 10-34 years
- 4<sup>th</sup> leading cause of death for ages 35-54
- Twice as many suicides as homicides

*Source: National Institute of Mental Health (NIMH) (2016)*

## Suicide by Profession:

### Men

- #1: Construction Workers
- #2: Art, Design, and Media
- #3: Maintenance & Repair
- #4: Transportation
- #5: Production Workers
- #6: Protective Services
- #7: Buildings & Grounds
- #8: Health Care Practitioners
- #9: Farming & Fishing

### Women

- #1: Art, Design, and Media
- #2: Protective Services
- #3: Health Care Support
- #4: Food Preparation & Service
- #5: **Legal: 2012 ranking = #3; 2015 = #5 (-17%)**
- #6: Health Care Practitioners
- #7: Production Workers
- #8: Personal Care
- #9: Sales

Source: Center for Disease Control (2018)

## Suicide by Profession

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### Men

- #10: Sales
- #11: Food Preparation
- #12: Health Care Support
- #13: Architecture & Engineering
- #14: **Legal: 2012 ranking = #12; 2015 ranking = #14 (-12%)**
- #15: Management
- #16: Personal Care
- #17: Computer & Math

## Attorneys compared to general public

### Attorneys

- 20.6 % have issues with **alcohol**
- 28% have issues with **depression**
- 19% have issues with **anxiety**

### General Public

- 6.2 % have issues with **alcohol**
- 6.7% have issues with **depression**
- 19% have issues with **anxiety**

Source: Krill, Patrick, JD, et. al (2016)  
Used psychometric instruments  
14,895 subjects  
Men = 53.4% Women = 46.5%

## Emergency resources if you have *any* concern:

- National Suicide Prevention Hotline 1-800-273-TALK (8255)
  - Local suicide prevention hotlines
- 
- If you are worried, just make an “executive decision” for the hurting individual:
    - ✓ Take them to closest hospital emergency room
    - ✓ Don’t hesitate to contact individual’s family
    - ✓ Don’t hesitate to call the police, if necessary

## Leading a Legal Team: What the Leader Can Do to Reduce Depression Risk

### Leader skill:

1. Use interpersonal communication skills to create connections:
  - \* Open-ended questions
  - \* Active listening
  - \* Tracking
  - \* Use of re-framing
2. Create culture of trust within team via:
  - \* Leader acting with congruence
  - \* Leader modeling authenticity and vulnerability

### Reason/Benefit to applying this skill:

1. Creates good social capital that you can spend on work tasks BUT also when staff member is in distress.
2. Research continually suggests that trust is the key variable for successful team. Where trust exists, attorneys with emotional distress are more likely to turn for help.

## Leading a Legal Team: What the Leader Can Do

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### Leader Skill

3. Display emotional intelligence
4. Actively and productively address conflict
5. Encourage “adaptive” Type A behavior.
6. Initiate authentic “check-ins” with team (and individuals) that are person focused, not just task focused.

### Reason/Benefit in applying this skill

3. A distressed attorney is more likely to turn to a leader who demonstrates skills and comfort with the “head” AND the “heart.”
4. Unaddressed conflict creates huge barriers for people who might need to ask for help.
5. Stress a culture working for excellence and not perfection, performing very well vs. always winning, and self-compassion vs. self-criticism.
6. Anyone experiencing significant depression is more likely to ask for help if they perceive that their leader sees them BOTH as attorney and as “person.”

## Leading a legal Team: What the Leader Can Do

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### Leader Skill

7. Demonstrate courage. Keep following up with the attorney who appears depressed or who in some form asks for help.
8. Get comfortable asking for your own help, guidance, support, or consultation with your peers- fellow leaders- about how they may handle an attorney with emotional challenges.

### Reason/Benefit to Applying This Skill

7. One-time conversations with an emotionally depressed person are *never* enough to get them to take action and get help.
8. You need to have sources to replenish your own resources and resilience to deal with one who is emotionally depressed. You also will not have all of the answers, and you will learn from others.  
  
Develop an active, consultative relationship with Human Resources and the representative from your Employee Assistance Program (EAP).

## Summary

1. The challenges of maintaining *high levels of critical thinking* are many.
2. Depression and anxiety are more than uncomfortable feeling states; they are *contributors to performance decreases* in critical thinking within the legal profession.
3. Depression and anxiety, and their negative impacts on performance, can be *mediated by the resources presented*.
4. Small reductions in depression and anxiety result in *disproportionate increases in levels of performance*.

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<https://www.cdc.gov/nchs/fastats/depression.html>.

National Institute of Mental Health (2016)

<https://www.nimh.nih.gov/health/statistics/suicide.shtml>.

Nadeau, Miranda, et. al. (2016). "Men's depression: endorsed experiences and expressions." *Psychology of Men and Masculinity*, Vol 17, #4.

## Resources

Lawyer Assistance Program (LAP) - The State Bar of California

<http://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program>

Lawyer Assistance Program  
877-LAP-4HELP / 877-527-4435  
Email: [LAP@calbar.ca.gov](mailto:LAP@calbar.ca.gov)

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Burns, David (2008). *Feeling good: The new mood therapy*. Mass Market Paperback.

*Comment: This is the classic, practical book on using neutral cognitions, reframing, positive psychology, and other cognitive techniques to reduce depression and anxiety. Has been very popular with attorneys with whom I work. Very accessible for busy professionals. My favorite.*

## Resources

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Cognitive-behavioral therapy ([CBT](#)) is an effective and appropriate approach for late-life [depression](#) because it is problem focused, examining and treating present-day problems that negatively impact the client's quality of life. See below:

Gillihan, Seth J. (2018). *Cognitive behavioral therapy made simple: 10 strategies for managing anxiety, depression, anger, panic, and worry*. Amazon: Kindle.

*Comment:* I have not heard his presentation of these ideas, but the title is certainly intriguing! Cognitive behavioral therapy (CBT) is viewed by many as very effective with depression and anxiety, and often appeals to high-level intellectual professionals.

## Resources

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Seligman, Martin (2012). *Flourish: A new understanding of happiness and well-being*. Free Press/Simon & Shuster: New York.

*Comment:* Dr. Seligman is one of the pioneers in the field of positive psychology, and his work and concepts (such as “learned optimism”) offer tangible guidance for crafting behaviors and routines that lead to greater emotional and intellectual well-being.

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# Thank you



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