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Mental Health in the Courtroom

Draft Slides for Judicial Education

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Disclaimer

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Mental Health in the Courtroom: Overview of Presentation

Introduction

Recognizing Mental Illness /
Impairment

Approaches to Mental Impairments

When to Seek Expert Help

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What we won't
be talking
about...



.... how to diagnose and treat
mental illness.



Rather ... the goal is **practical
suggestions** for working with
difficult people who may be
experiencing mental distress.

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Introduction

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What is
Mental
Health?

Why is it
relevant to the
Courtroom?

What is Mental Health?

Defined by the WHO as:

“a state of **mental well-being** that enables people to **cope** with the stresses of life, **realize** their abilities, **learn well** and **work well**, and **contribute** to their community.”

WHO adds:

“It has intrinsic and instrumental value and is integral to our well-being.”



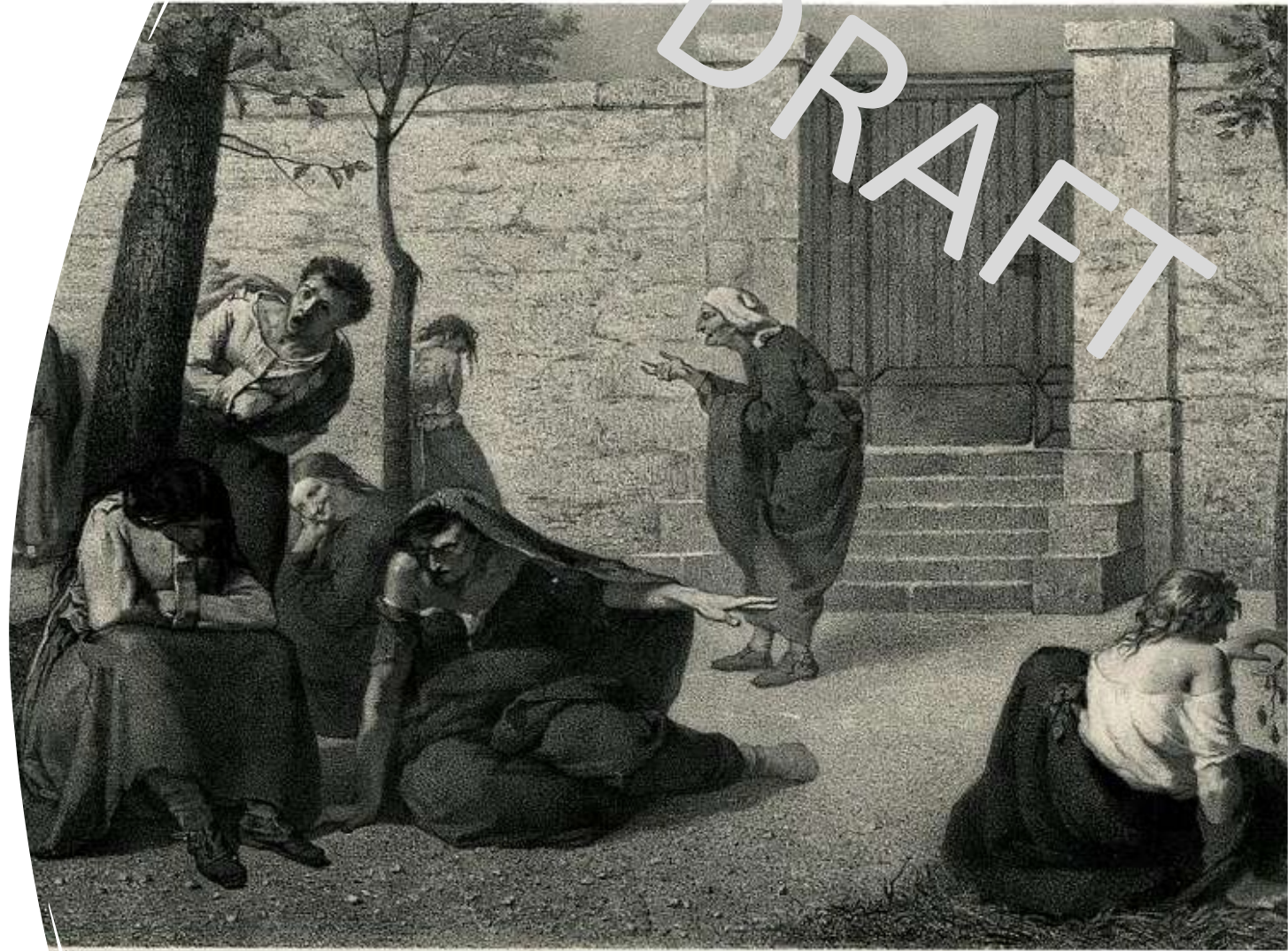
What is Mental Health?

... in contrast to mental illnesses:

- “disorders, ranging from mild to severe, that affect a person’s thinking, mood, and/or behavior.” (SAMHSA.gov).

And “serious mental illness” (SMI):

- “a mental illness that interferes with a person’s life and ability to function.”



Mental Health's Relevance to Court

Mental illness has greater prevalence in justice-involved individuals than the general population!

- Mental disorders may result in a defendant's incompetence to stand trial (IST) or otherwise impair functioning.
 - Example: behavioral dysregulation leading to contempt of court.
- Nota bene: Defendants may not be the only individuals in court who have a mental disorder.



"Front exterior, Byron R. White U.S. Courthouse, Denver, Colorado" by Carol M. Highsmith from the Library of Congress, <https://locn.loc.gov/2010719086>

Mental Health's Relevance to Court

Mental illness has greater prevalence in justice-involved individuals than the general population!

- 17% of adults booked in U.S. jails have a severe mental illness (SMI).
- 65% of adults in U.S. correctional systems meet criteria for a substance use disorder (colloquially, “alcoholism,” or “drug problem”).
- Stress of legal process may induce or exacerbate mental health symptoms.



Mental Health's Relevance to Court

Example Scenario 1:

- Defendant appears in court with hair combed forward, entirely obscuring face.
- They do not heed the advisement of their attorney not to speak unless authorized to do so by the court.
- In an inappropriately loud voice, they deny that the court has any jurisdiction over their case. “This illegitimate sham has got to stop!”



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Consider: Is this behavior due to a mental illness?

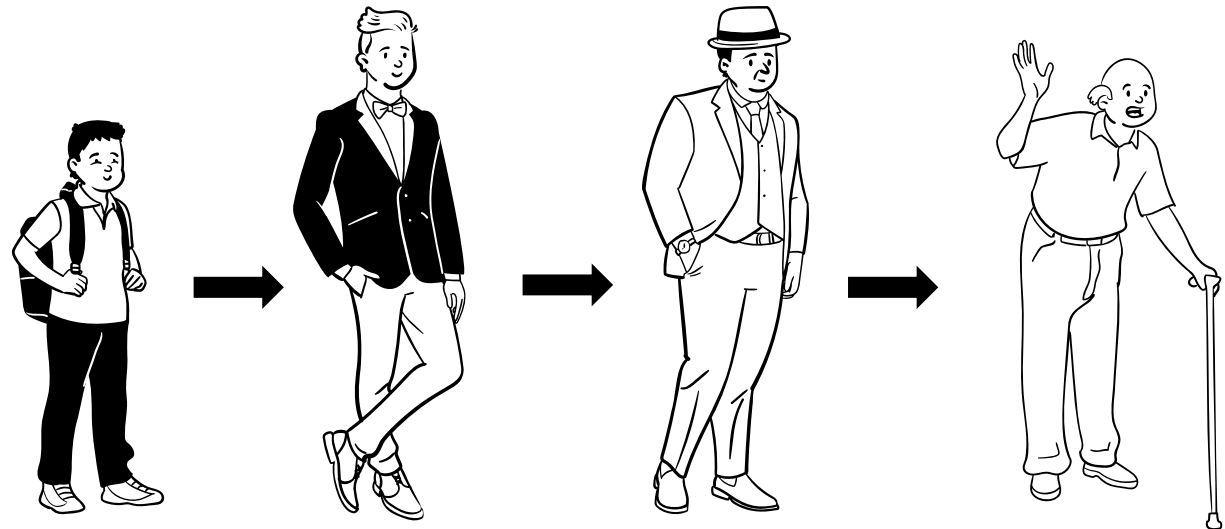
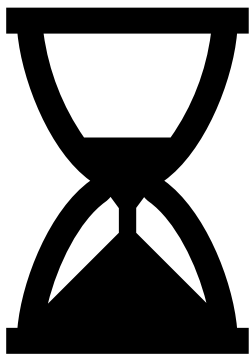


Photo by Alexander Krivitskiy on Pexels

What are Mental Illnesses?

“Disorders, ranging from mild to severe, that affect a person’s thinking, mood, and/or behavior.” (SAMHSA).

- May be **time-limited** (e.g., intoxication, panic attack, PTSD, etc.) ...
- ... or **lifelong** (e.g., schizophrenia, recurrent major depressive disorder, PTSD, etc.).



What are Mental Illnesses?

“Disorders, ranging from mild to severe, that affect a person’s thinking, mood, and/or behavior.” (SAMHSA).

- May have an **established, evidenced-based treatment**
 - e.g., medication, therapy, ECT, TMS, for major depressive disorder.
- May have only **experimental, unproven, or less effective treatments**
 - e.g., intensive psychotherapy for certain personality disorders.
- May be **only partially treatable or irreversible**
 - e.g., dementia, where treatments have only slowed progression or addressed subset of symptoms.

What are Mental Illnesses?

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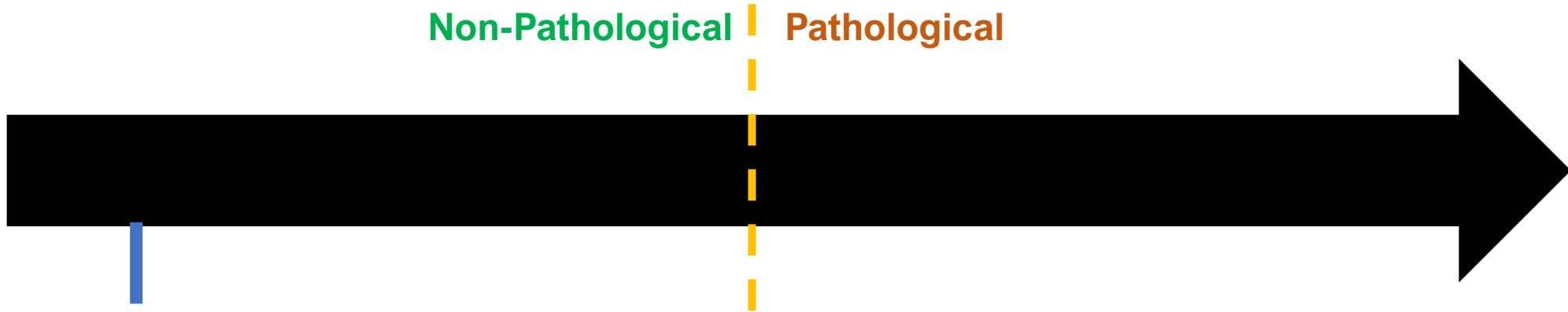
- May exist on a **spectrum** with normal functioning.
 - i.e., anxiety disorders

What is Mental Illness?

spectrum of Mental Conditions

Example condition: **Anxiety**

Non-Pathological | Pathological



Adaptive anxiety =
normal part of life.

*You want to be anxious
when faced with a true
danger ...*

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What is Mental Illness?

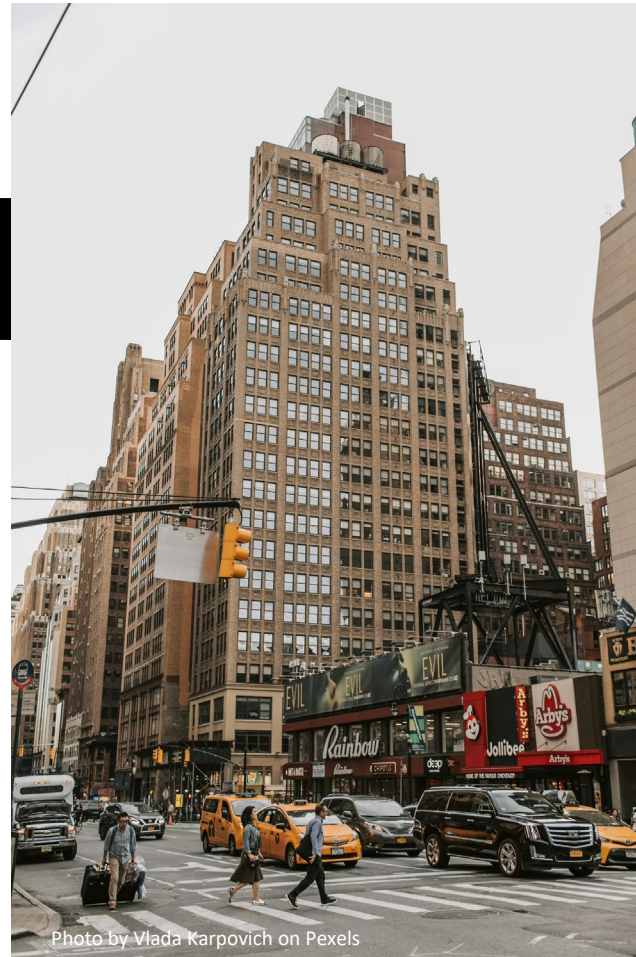
spectrum of Mental Conditions
Example condition: **Anxiety**

Non-Pathological

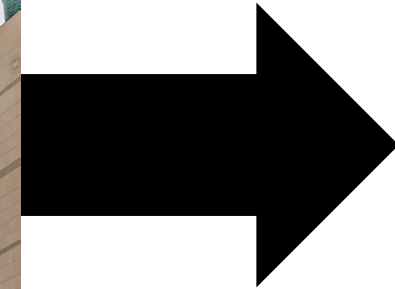


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What is Mental Illness?

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*You want to be anxious
when faced with a true
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Increasing anxiety:
bothersome, potentially
unsettling; possibly
“pathological.”

Examples: persistent
worry; insomnia.

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What is Mental Illness?

spectrum of Mental Conditions

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Examples: persistent
worry; insomnia.

Maladaptive anxiety =
anxiety **disorder**

Example: *Panic attack!*
a misplaced fear of
death that is
temporarily debilitating.

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Substance Use Disorders *are* Mental Health Disorders

What defines a Substance Use Disorder?

Continuing to **seek and use a substance** *even when it is causing dysfunction* in relationships, work, physical health, etc.

OLDE
VIEW:

Disordered Substance Use is problem of

- short-term pleasure seeking and
- impulsivity (i.e., poor willpower).

**Scientific
View**

Disordered Substance Use occurs when

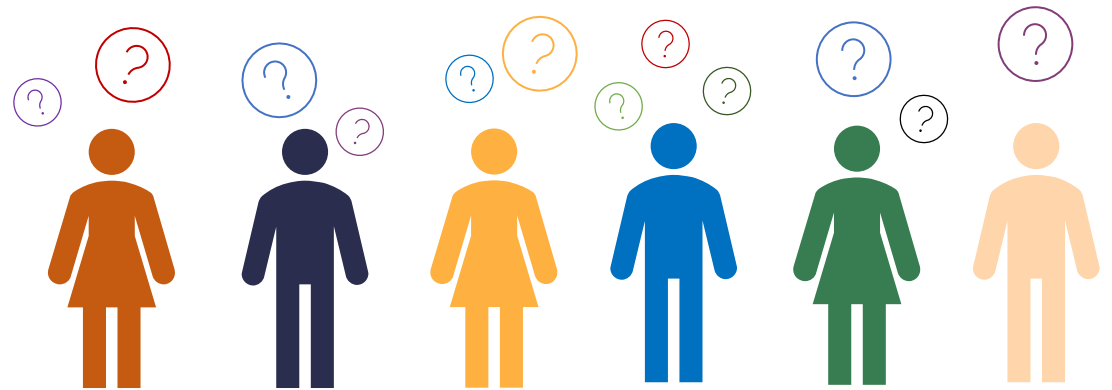
- the **habit circuits take over** ... at which point ...

the main purpose of using the substance is to alleviate discomfort & cravings... AND ...

Substance Use Disorders

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- ... involve compulsive behaviors.
- And dysfunction of the "executive" systems of the brain.
 - For example: Short-term *thinking* and disregarding longer-term consequences
 - *After awakening, Bill began to think about his future. In general, he expected to...*
- When does the story end?
 - Control Subjects: 4.7 years
 - Opioid Use Disorder Subjects: 9 days (!)



Approaches to Difficult Behaviors and Mental Illness

What's happening in the brain?

- Recognize the state of threat
 - In others and in yourself
- Perpetuating the cycle

Tools to break the cycle

- Good practices for specific situations
- LEAP
- Motivational Interviewing (principles)

How do we
respond to
threat?

What threats do we face
in our modern lives?

How might judges be
threatening?

What feels threatening
to you?

How do we respond to threat?



FIGHT

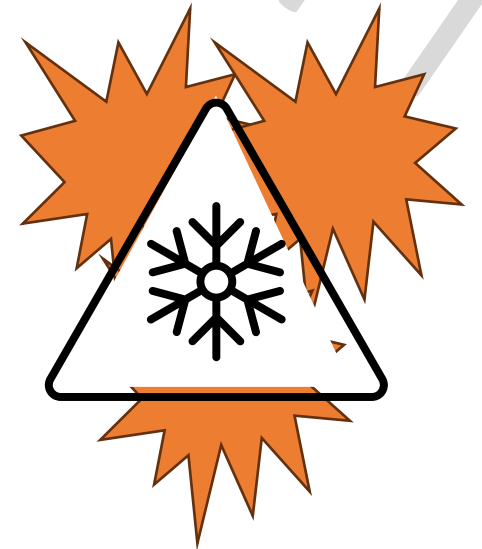
FIGHT, FLIGHT, OR FREEZE

HOW ARE YOU SHOWING UP?

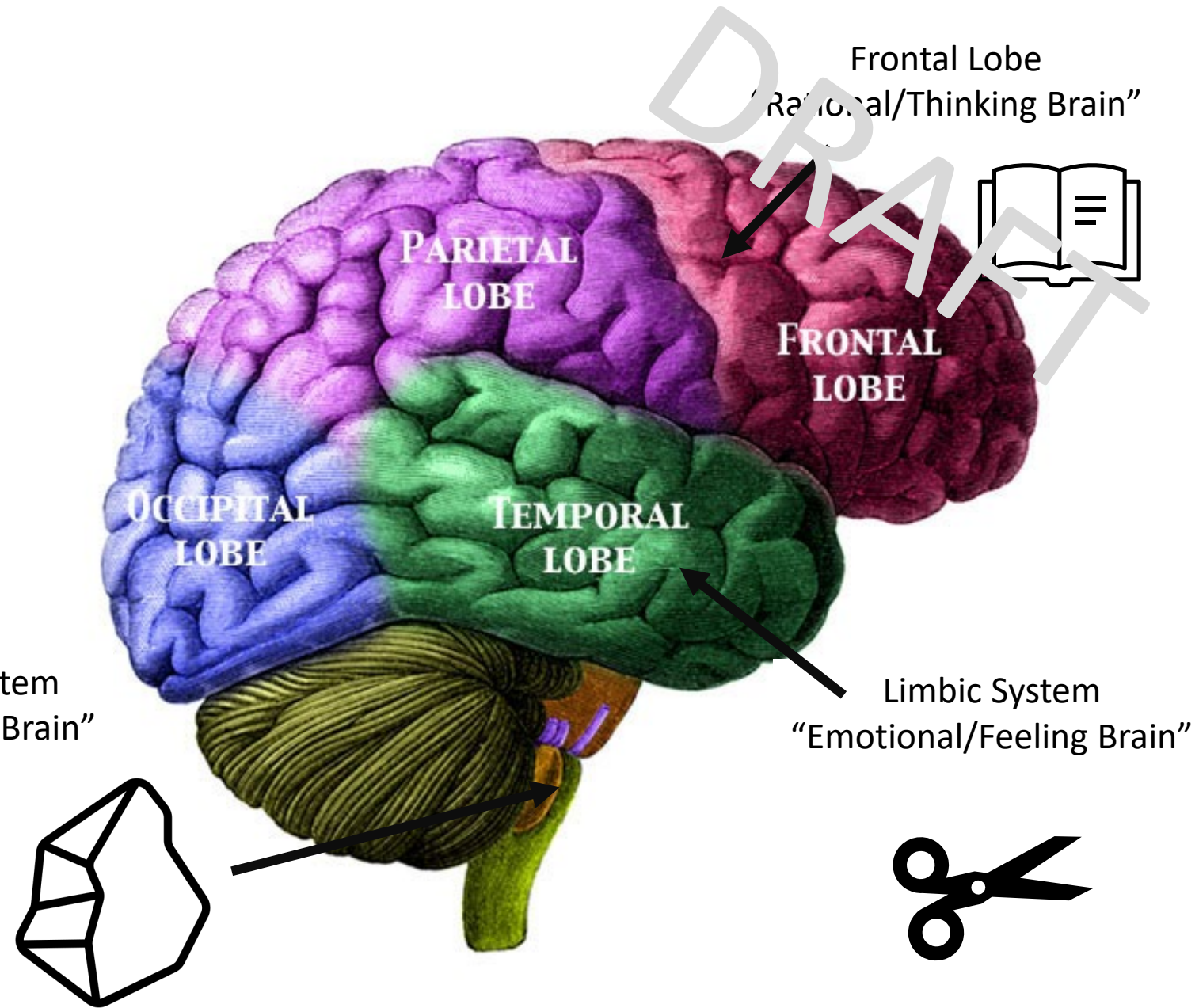
FLIGHT



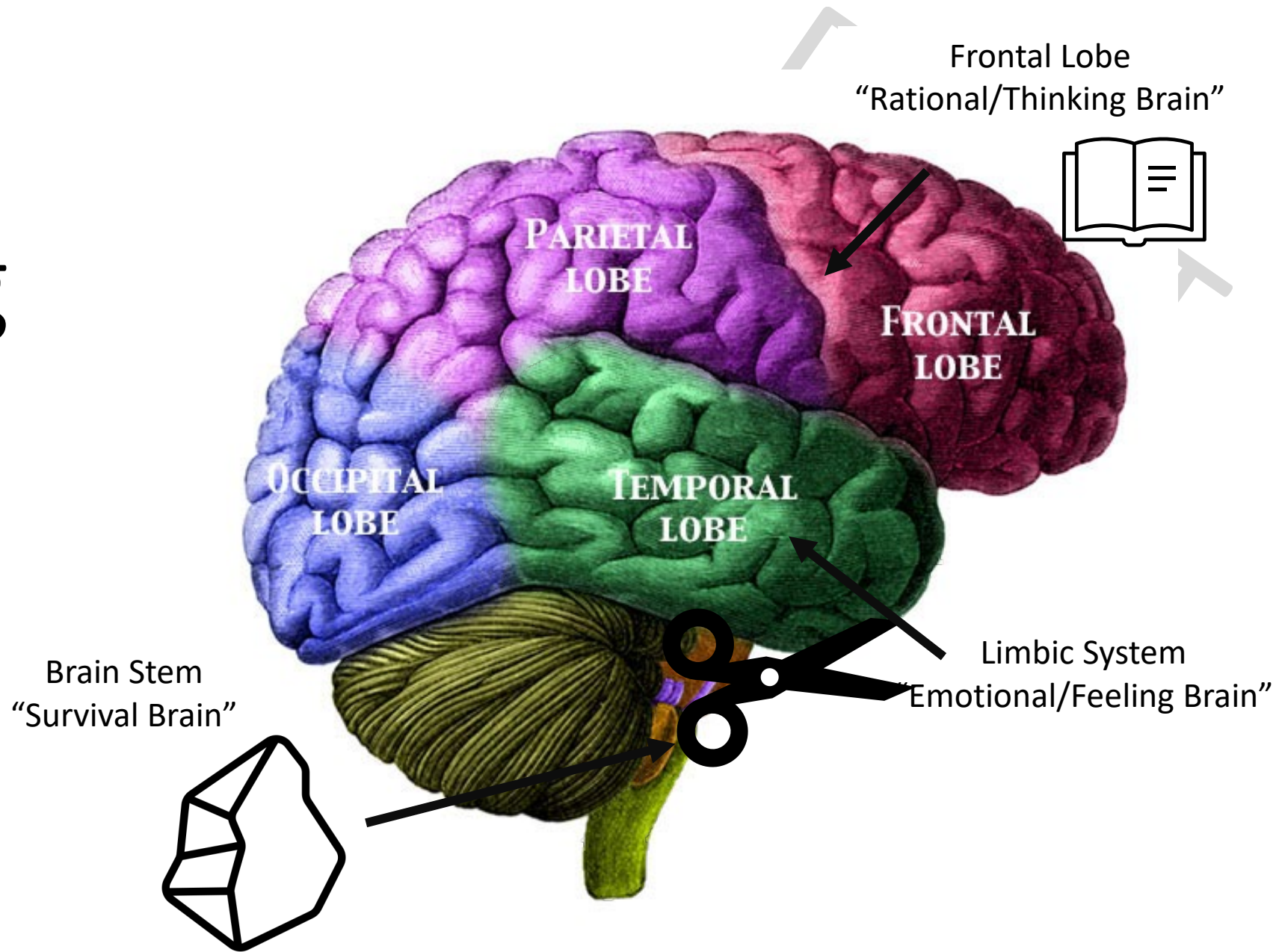
FREEZE



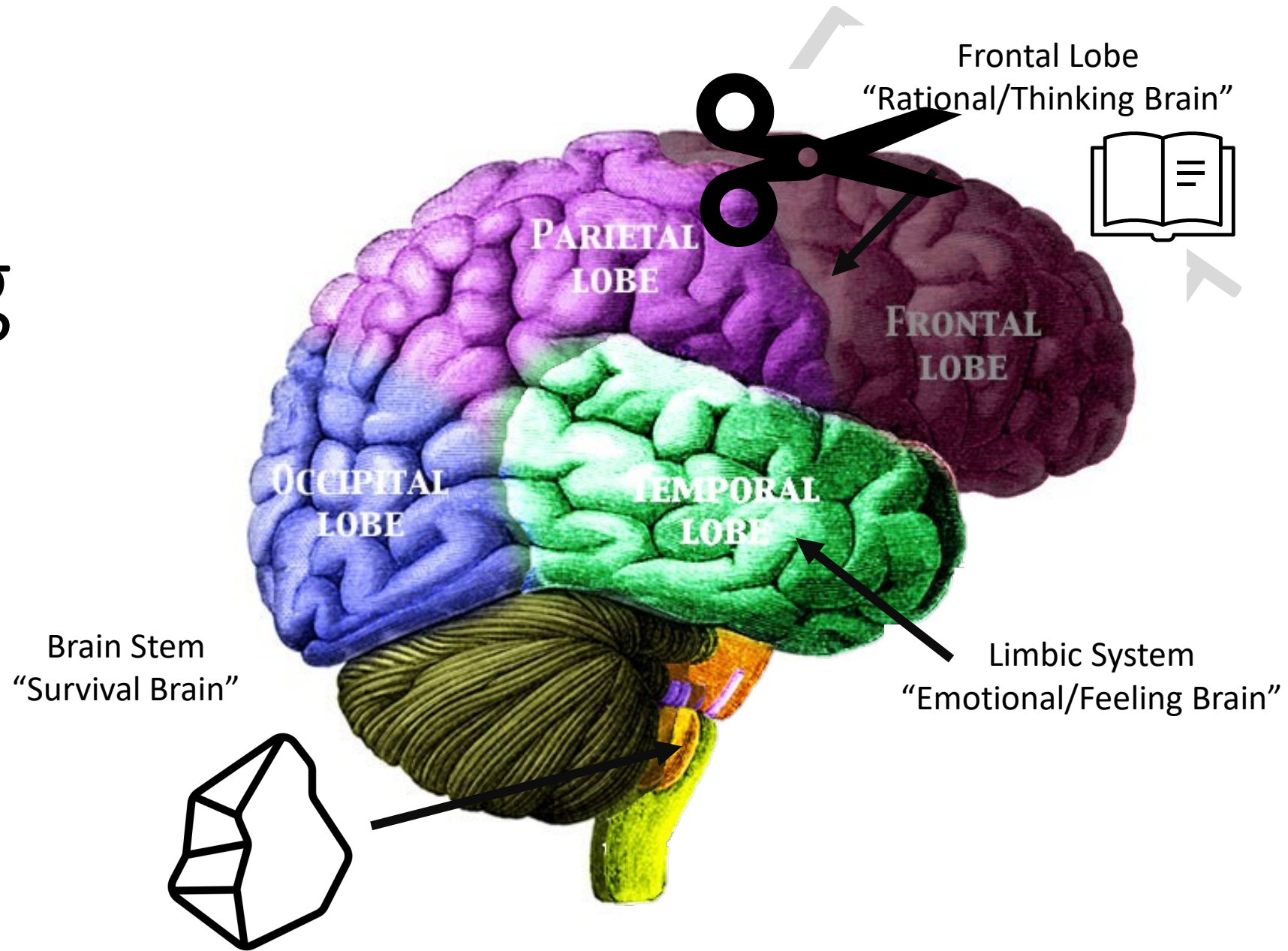
What's happening in the brain?



What's happening in the brain?



What's happening in the brain?



Recognizing when others are feeling threatened

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FIGHT

- Acting out
- Behaving aggressively
- Acting silly
- Exhibiting defiance
- Being hyperactive
- Arguing
- Screaming/yelling



FLIGHT

- Withdrawing
- Becoming disengaged
- Fleeing
- Skipping
- Day dreaming
- Sleeping
- Avoiding others



FREEZE

- Exhibiting numbness
- Refusing to answer
- Feeling unable to move or act
- Refusing to get needs met
- Giving a blank look
- Sense of stiffness
- Feeling numb



Do you recognize any of these behaviors in yourself?

Mental Health's Relevance to Court

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Consider: Is this behavior due to a mental illness? ... Possibly!



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Consider: Is this **Fight** / **Flight** / **Freeze**?



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Mental Health's Relevance to Court

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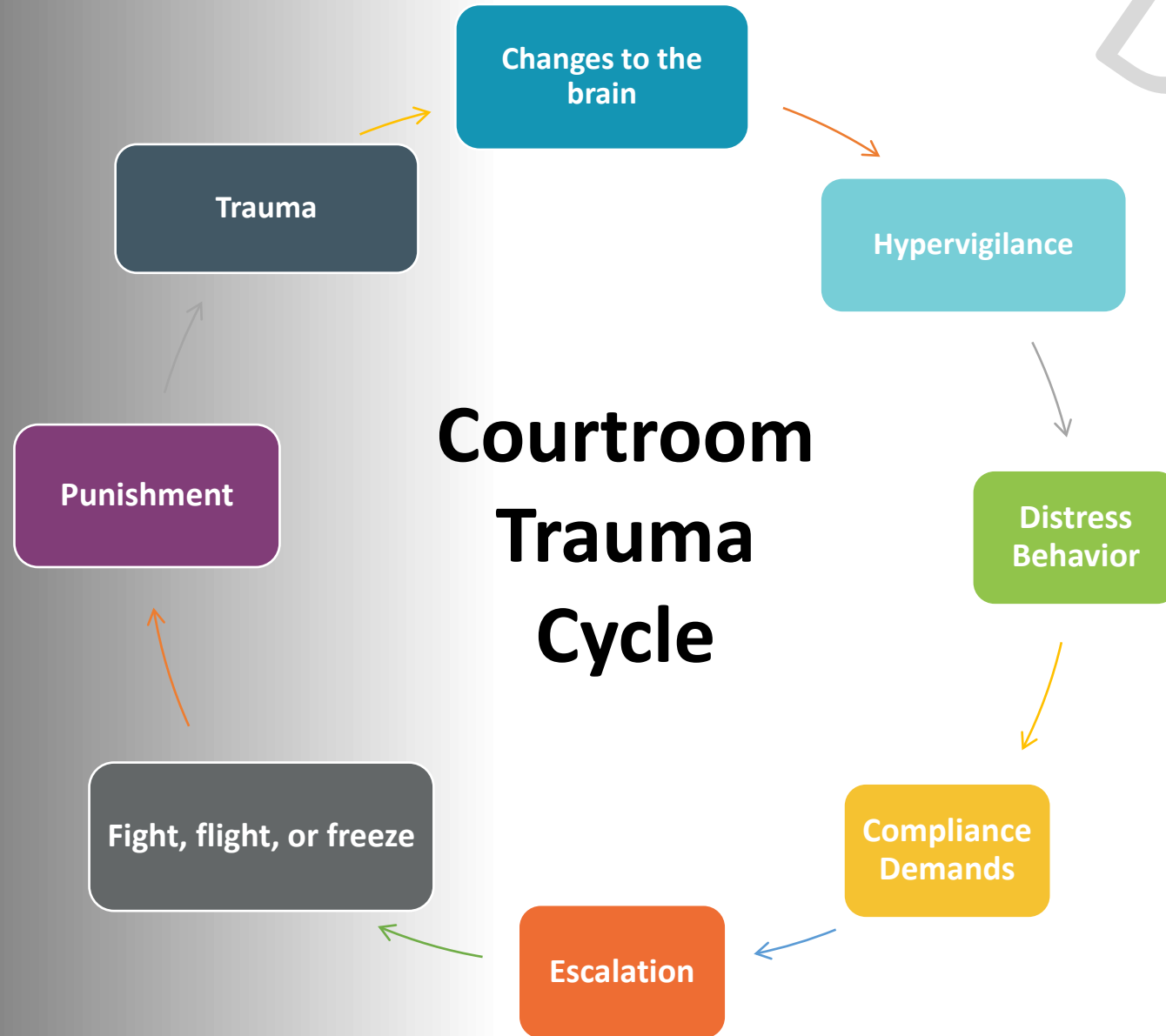
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Consider: Might the *judge* perceive a threat in this scenario?



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Courtroom Trauma Cycle

Approaches to Difficult Behaviors and Mental Illness

What's happening in the brain?

- Recognize the state of threat
 - In others and in yourself
- Perpetuating the cycle

Tools to break the cycle

- Good practices for specific situations
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Good Practices for Specific Situations

Mental Condition	Suggested Response
Impaired processing	Speak slowly
Impaired awareness	Explain what's happening
Impaired memory	Provide written instructions
Behavioral Dysregulation	Set clear limits, revise, <i>stay curious</i>
Ambivalence	LEAP / M.I. / other tools

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Managing Behavioral Dysregulation:

Set clear & realistic limits and expectations

Be concrete

Let everything else go

Revise your expectations

Stay curious!

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Models of Interaction

LEAP

- Listen
- Empathize
- Affirm
- Partner

Motivational Interviewing





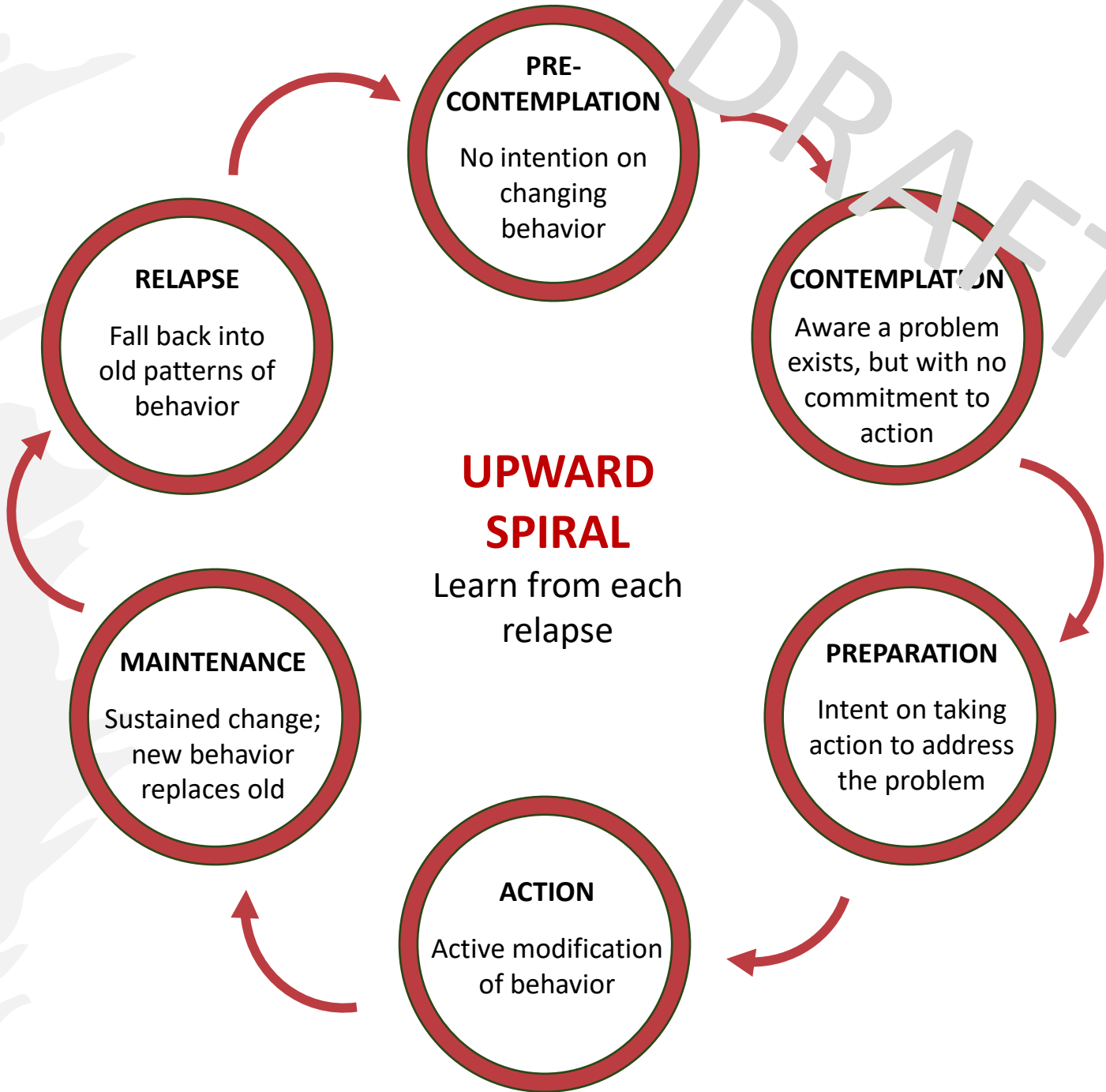
Effecting Change

Principles from
Motivational Interviewing



Working with Ambivalence

“Change is hard.”

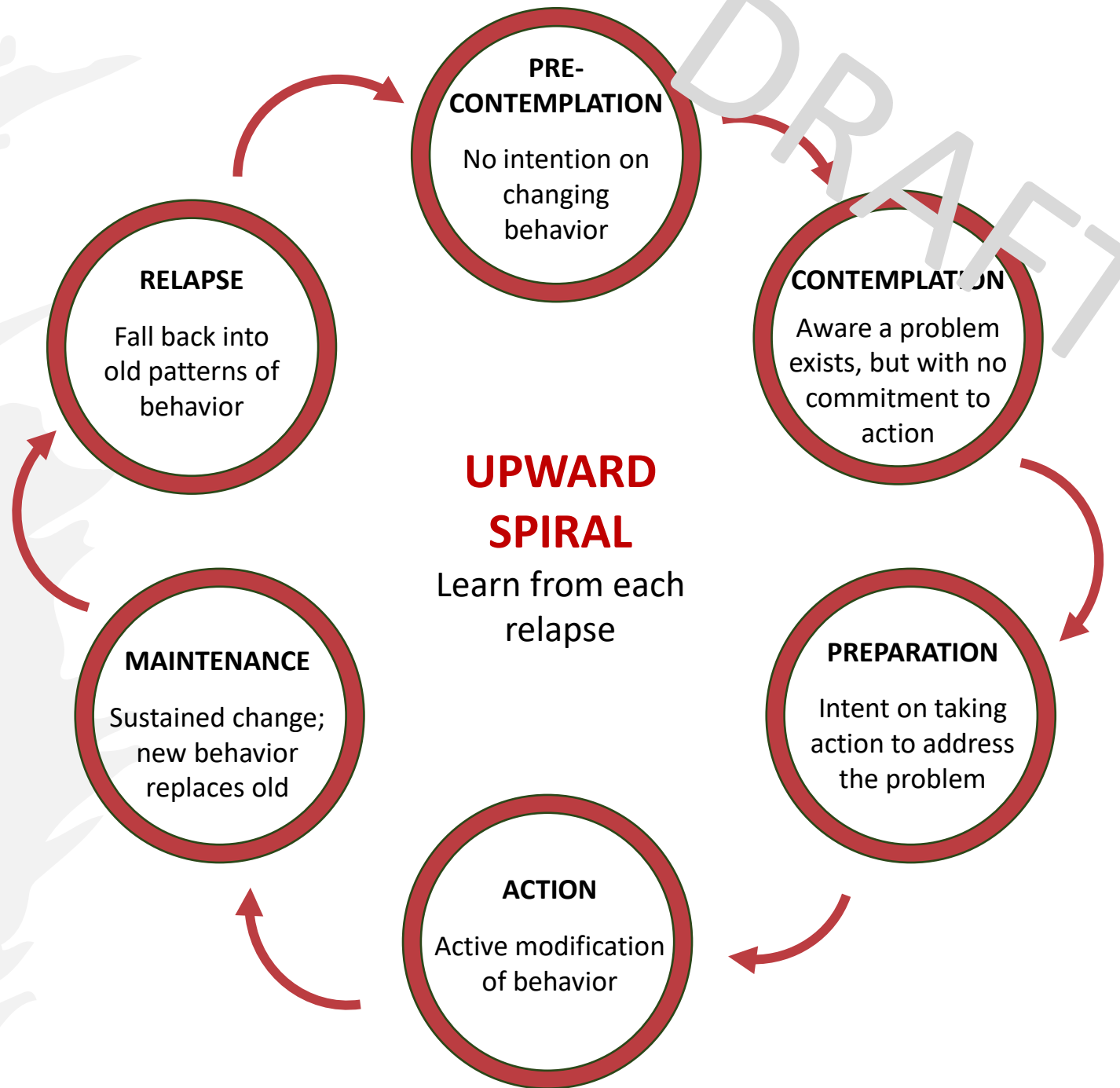


Working with Ambivalence

“Change is hard.”

Example: New Year’s Resolutions

Have you ever found yourself in such a cycle with a New Year’s resolution?



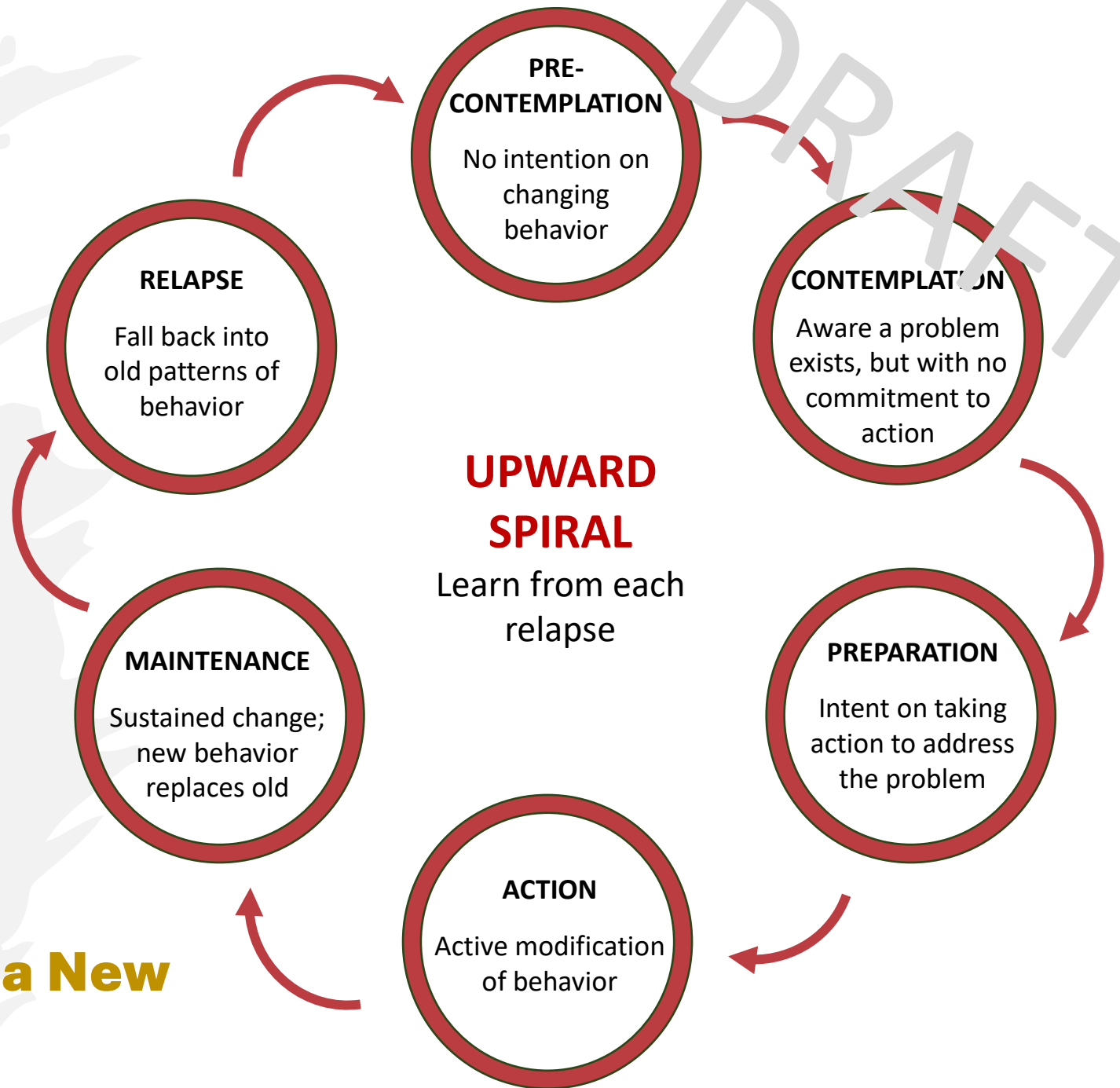
Working with Ambivalence

“Change is hard.”

Example: New Year’s Resolutions

Have you ever found yourself in such a cycle with a New Year’s resolution?

Have you ever accomplished a New Year’s resolution?





Psalm IX. Ver: 16.
The Wicked is snar'd in the
work of his own hands.

Leviticus CH: XIX. Ve: 15.
Thou shalt do no unrighteous
ness in Judgment.

Plate 10.

Photo by National Gallery of Art on Picryl

Example Scenario 2

- A defendant grabs their pencil and emphatically writes **big notes** that they keep shoving to their attorney. Defendant's counsel is seeking mental health diversion.
- Defendant *denies that he has a mental illness.*
- Defendant denies that they would benefit from treatment.



What approaches might you take to respond to this individual's behavior?

Example Scenario 2

- A defendant grabs their pencil and emphatically writes **big notes** that they keep shoving to their attorney. Defendant's counsel is seeking mental health diversion.
- Defendant *denies that he has a mental illness.*
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If at first you don't succeed...

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... consider consulting an expert.

Forensic mental health experts are trained to:

- Identify mental illnesses.
- Determine whether mental illnesses are affecting behavior.
- Recommend specific treatments

Some Peer Suggestions for Specific Situations

Put a case on second call and come back to it ...

... allowing the **fight/flight/freeze** response to dissipate...

... and demonstrating **good will**.

Some Suggestions for Specific Situations

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“Let’s pick a new date. Please make a list of your concerns and we can discuss them!”



Limits on the mind's attention



Individual motivations

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Mental shortcuts called "heuristics"

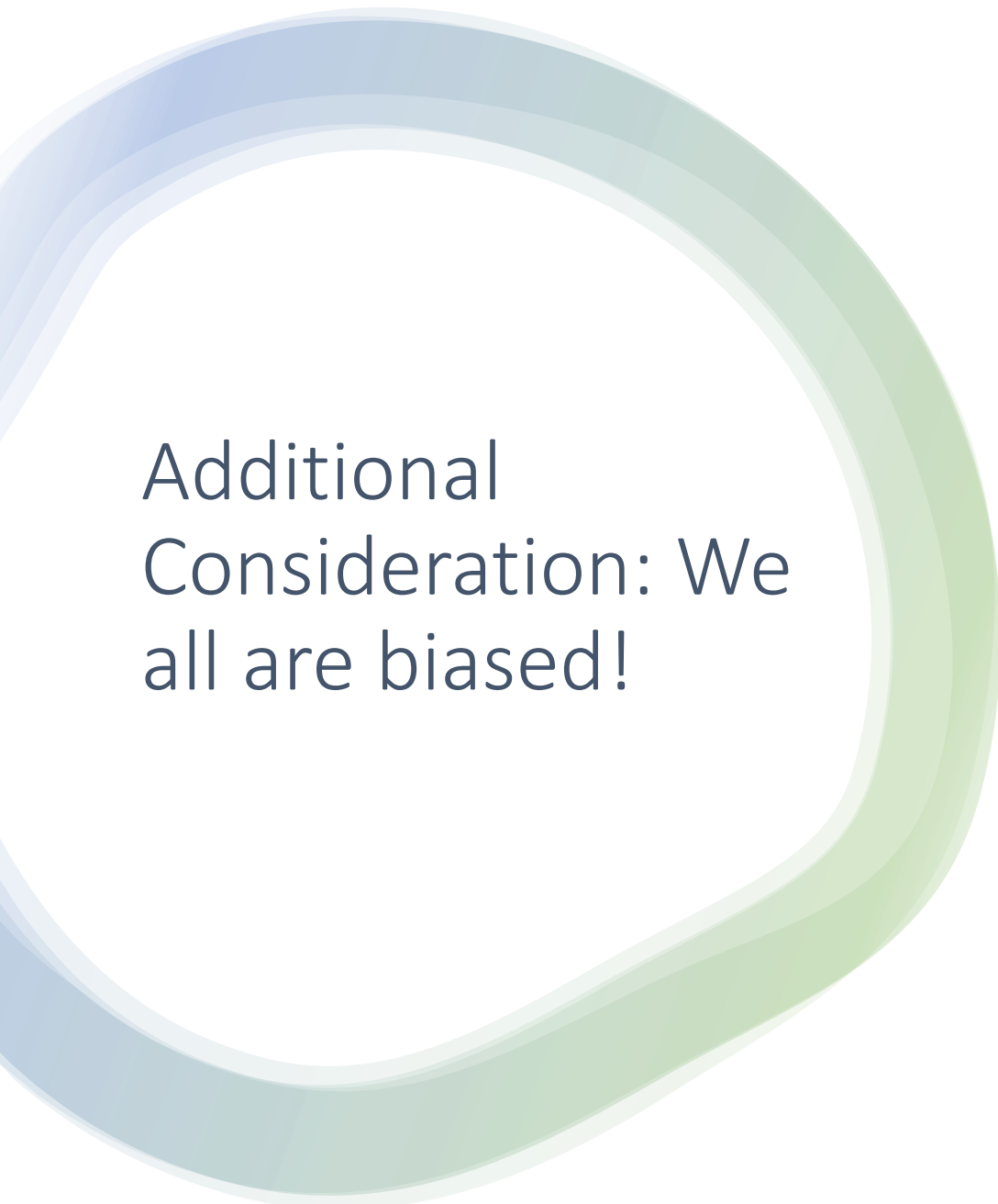


Social pressure



Emotions

Additional Consideration: We all are biased!



Additional
Consideration: We
all are biased!

- DRAFT
- As has been persuasively argued, many biases are the result of *otherwise useful, unconscious* mental processes, such as heuristics or “shortcuts.”
 - Sometimes, these “shortcuts” help us.
 - Snap judgments can save our lives! ... in certain situations.
 - Unfortunately, in other situations, those “shortcuts” can lead us astray. For example:
 - Confirmation bias – when we’re so busy looking for data that confirms what we think that we overlook data that contradicts it.
 - Availability heuristic – when we overvalue information based on our own experience, i.e., because that information—in the form of memory—is readily available to us!

Additional Examples for discussion

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Yours!