

You don't need a full agreement to have your point of view

- Since 1774, when the first law student was admitted to an American law school, law schools in the United States have been teaching people how to think like lawyers. Lawyers do think differently from non lawyers. Primarily, what lawyers do is look for questions, not for answers, conclusions, or outcomes. My name is Kimberly Wehle. I've been a law professor for over 15 years. I'm a book author and I'm a practicing lawyer. In this course I'm going to share with you some of the skills of lawyering that can be brought to bear on your next decision, both in your personal life and in your work environment. Things like breaking big issues down into sub issues. How do identify your values and your goals, and to check the outcomes against those values and goals so that you can feel better about the decision that you had to make. By the end of the course, you'll have some concrete takeaways that you can apply to the next decision you have that will hopefully produce not just a better outcome, but one that you can feel better about. So join me in this course on how to think like a lawyer in making decisions in your personal and professional life.

### Different types of decision-making

- We each make decisions every day in our lives. Sometimes they're small decisions like where should we go for dinner tonight? Other times are more complex decisions like, should we take the job across the country and move our families? Historically, people up until the 17th century relied primarily on oracles and priests for making decisions. These days, of course, we have all kinds of technical tools that help us make decisions. But oftentimes, it's our gut instinct that carries the day or something called groupthink. We might go along with the group to fit in even if the outcome isn't really consistent with the factual scenario on the table. Lawyers help people make bigger decisions, more complex decisions, and they do it using three primary steps. Number one, lawyers will break issues down into sub-issues. Number two, they'll collect facts and law or rules governing each of those sub-issues. And they'll collect facts that go on both sides of the arguments. Number three, they'll check their analysis and proposed outcome against values, values that are baked into the rules, societal values, things

like efficiency, fairness, and accuracy. And of course, they'll pay attention to the goal that the client has. Does the client want to win a particular money judgment or does the client just want to resolve a dispute and move on quickly? In this course, we're going to talk about your own value system that's intrinsic and how you live your life and how that common sense can be brought to bear in a methodical way on everyday decision-making that could have big implications for your life.

### Why think like a lawyer?

- What's so special about thinking like a lawyer? Why do people pay thousands of dollars every year to go to law school? Well, what I tell my students is that lawyers look for questions, not for conclusions or answers. Most law students come to law school looking for the right answer and with an instinct to give reasons why their answer is correct. We do this every day in our lives. Psychologists call it confirmation bias. We have a preconceived idea about a certain topic, and we'd look for evidence to conform to that preconceived idea. Maybe I think left-handed people happen to be really creative. So when I see a left-handed person do something very creative, I say, "There you go. There's the example, the evidence of my bias that left-handed people are creative." The way lawyers think outmaneuvers confirmation bias, breaks things down into pieces. For decades, law students have learned a four-step method called the IRAC method, I-R-A-C. Identify the issue, identify the rule or the law that applies, give arguments on both sides, that's the A in IRAC, the analysis step, and then reach the conclusion. One of the biggest tasks I face every year is disabusing students of the notion that they should jump to the sea and to emphasize it's the A in IRAC that is really the heart of legal analysis and thinking. It does a few things that are beneficial. It bypasses this confirmation bias, this instinct to look for evidence, to support a preconceived idea of what the outcome should be. Second, it lets us avoid pitfalls so that there are no surprises in court when you hear counter-arguments to your point from your opposing counsel. How does this help in your own life? Well applying the legal method to big decision-making can help you as well. Bypass confirmation bias, get out of emotion when it comes to complex decisions, slow everything down, gather good information, make arguments pro and

con and then when you have your decision, you can feel more comfortable, have more buy-in that it's the right decision for you even if you didn't get everything you wanted or even if some people that are implicated in the decision, don't agree with you. The legal method lets you exhale and have confidence in the outcome.

### The difference between rules, norms, and values

- Many people assume the job of lawyers is to identify laws and tell their clients what the law is, but it's actually much more nuanced. Consider a law governing speed limits, 35 miles per hour. That's the rule. But there are two other elements to laws that we talk about in law school. The second is this concept of norms. Even if a police officer isn't hiding in the bushes to hand you a ticket if you go over 35 miles per hour, you might slow down just because it's what people do in your neighborhood. Maybe there's a school or a playground nearby, but the third piece, what lawyers call policy, is perhaps the most important one. That is consistent with the concept of values. What do we value? What's the value behind 35 miles per hour? It might be public safety. It might be just having ordered society when it comes to the roads, pedestrian traffic. In your everyday life and in your work life, it's worth specifically identifying for yourself, what are the values underlying a particular rule? Say you're a manager and you have to apply a very clear requirement in the employee handbook. You might automatically check that against your value system without even knowing it. What I'm suggesting is that you be very specific in identifying, write down a list. What are the values animating a particular rule or particular decision in front of you? As I tell my students, if you understand the why behind a rule, it's much easier to apply the what and to apply the what in a way that's consistent with common sense and your own value system.

### Identifying your goals

- There's a difference between values and goals. Values in the law, are known as policy, efficiency, fairness, accuracy. In your life, it could be things like integrity, honesty, reputation, respect for other people. It's very important to identify those things in making decisions. But it's also important to identify

goals. Lawyers will sit down with a client and ask them, "What's your goal?" The goal for the client in the litigation might be, I want as much money as possible in this lawsuit. A goal might be, I just want this lawsuit to go away, make it go away as quickly as possible, or, the client might say, "I need a few months to work something else out, please drag things on for three more months and then we'll try to resolve this problem." Likewise in your life, in your work life, you might have short, medium and longterm goals. A longterm goal could be to move up the ladder in your organization. A short term goal could be, get yourself in a more comfortable working environment. Maybe you have a coworker that's a little bit toxic and you just want a lateral that's more comfortable for you. Well, it's important to identify those goals, before you make big decisions in your life. Let me underscore one thing. When I talk about goals here, I'm not talking about winning or losing. That is if you don't reach that goal, it doesn't mean that you failed in any way. The point of identifying goals is to guide your decision-making. Now if you're having a difficult time, actually identifying those goals for yourself or they're swimming about in your brain, let me pass along a little tip that I learned in law school. So I'm not an all-nighter kind of person. Around 11:30, 12:00 I'm done. So at some point in law school, I learned if I read over my notes passively, and told myself, "Kim, think about the notes while you're sleeping." In the morning, they were clear for me. They were very accessible to me. Maybe you've watched a movie about vampires. And in the morning you realized you dreamt about vampires. While studies have shown, that your brain is actually working to solve problems for you, while you sleep. So you can use that technique very deliberately when it comes to identifying goals around difficult problems, and tell yourself before you go to sleep, you know what, I can really use some help, in clarifying those goals for myself. In the morning, hopefully, you will have moved through to a different place in that regard. And why is this important? Because later we're going to see, once you make a decision, we're going to match that decision up with your values, and with your goals. And one of the bright lines, a bright side to this process, is that if your decision lines up with your values and your goals, you'll feel better, about the outcome.

## Prioritizing your goals

- Now that you have your list of values and you have your list of goals, the next step is to put it in priority. Take your list of values, and literally identify what's first, what's second, what's third, what's fourth. Same with your list of goals. In doing this exercise, you might find certain things fall off the list. They really weren't that important to you once you've thought about it. Or you might add some things to the list. You might have two tiers, you might have certain values nested under another value because they kind of glommed together in a way. It's important to do this step for a number of reasons. One, is that social science research tells us that when we are in a state of stress or in a state of excitement, our bodies are actually flooded with hormones that make it hard for us to make measured decisions in the moment. Think of a time where maybe you got an email that felt wrong, it seemed a little hostile to you. We've all had that impulse to type out a response, and maybe we might've later regretted hitting send. If that happens to you, give yourself 20 to 30 minutes before you respond. If you don't have that time, tap out an email that says, I'll get back to you, I'm on this, to buy yourself enough time so that your body can return to a state of equilibrium. Barring that, get a colleague as the second pair of eyes before you hit send. Likewise, something really exciting happens at work. You want to say yes, right away, excitement hormones give yourself 20 to 30 minutes, take a step back if you can, before you say yes. People who are good at sales understand that moment of excitement is the best time to actually strike the deal. Two other reasons why this prioritizing step is so important. Once made your list, I want you to circle on each list, the heart of the matter for you. That will be really intrinsic, it'll feel like a gut type decision and that's okay. It could be somewhere along the list, it doesn't have to be at the top. But it's important because we've all probably had experiences where we made a decision that wasn't so deliberate in terms of our values or in terms of our goals, and later we regretted it. It had consequences we didn't foresee, maybe it hurt someone or maybe it closed a door you didn't want to have closed. And if you could do it again, you do it a little bit differently. Taking this step not only allows us some breathing room, so we're not making decisions in flight or excitement stages, but also it allows us to be very deliberate about our values and goals so that we don't have regrets later. The last part I want you to think about is the very essence of complex decision-making, which is this. You

must give some things up to get to resolution. If you don't do this step, you might feel cheated if you don't get everything you want, it doesn't work out exactly how you like. You might be angry, you might feel that you caved. By going through these steps, when you get to the end of the decision, you will feel good that you adhere to your core values, even though you had to give other things up that matter to you. If that happens, that's when you know you made a good decision.

### Who are the stakeholders?

- A critical component to making a decision in a complex situation is identifying the stakeholders. Of course, you are a primary stakeholder in this, but there might be coworkers, a boss, maybe your family, maybe friends, maybe a third-party, lawyers understand this. A lawyer speaking to a judge is trying to persuade the judge to make a ruling in favor of the lawyer's client and against some other people. A lawyer tasked with making a recommendation to a client is going to speak in a way that explains the pros and the cons. So, the client can make an informed, neutral decision. A mediator could be a lawyer in a situation where the role is to reach some kind of compromise and conclusion. There are two other lawyers in the room, one arguing for one client, one arguing for another client. And of course, as a law professor, my objective with my students is not only to inform and educate, but to teach them how to think for themselves, not just how to find an answer to a problem. So, when you're making a decision, it's important to do a few things, identify for yourself, who are the various stakeholders, put this in a list, you know, I like that. Under each of those, identify what their interests, their objective, their goals, and maybe even their fears are in that decision. And also, be aware that you are probably going to have to make some people uncomfortable, whatever decision you make. Sometimes the hardest thing in a complex decision is realizing there will be some stakeholders who are disappointed. So, setting that up for yourself early can pay off dividends later when you have to deliver some news that might be comfortable. So, imagine you are a manager in an organization that needs to make a decision about a hybrid working environment. How much remote work versus in-office work is optimal for your organization. You could just make the decision unilaterally, focused on what's best for the company. Or you could

make your list of stakeholders, identify the various people that are in play with this decision. What are their concerns? What are their fears? And how are you going to communicate the outcome that might disappoint certain parties in a way that is most effective, not only for the organization but for you.

## Asking questions

- Lawyers think differently than non lawyers. You might know this. If you have a friend or family member who went to law school. Lawyers ask a lot of questions. They don't look for answers. They look for nuance. They look for questions. I call this in the decision-making process, information or knowledge gathering, get as much information as possible about the problem that you're facing and put it up on the table. This could be information that's not consistent with what your bias is. Remember, there's something out there called confirmation bias or outcome determinative decision-making. You know what you want. You look for information to confirm that point of view. Lawyers do the opposite. They get curious, they ask questions. Let me tell you a little story about this from my own experience, teaching law students. A year ago, I taught a class on the constitution, a small seminar, and there were a lot of issues at stake that we talked about that were thorny and uncomfortable for some people. What I did was ask each student before coming to class to read two different points of view on every issue from various news sources, I gave them a list of reliable news sources. And I said, come to class with two different points of view. At the end of the semester, we did a little review of how things went and they said a number of them. It was the first time they felt safe to really talk about their views of things or to challenge their assumptions coming into the classroom, and that they really changed their minds and approaching the issues with curiosity and not with already having made up their mind and deciding they're going to adhere to that team mentality. So when making a decision in your life, I suggest that you make a concerted effort to get as much good information up on the table bearing on that particular question. Not just information that confirms your side or your point of view, but information going the other way as well. This is what the entire American legal system is premised on. Getting as much information out there that's verifiable and accurate and making a good decision based on that

information. Hopefully this tip can be helpful in the decision-making that's facing you right now.

### Exercising critical listening skills

- An important element to good decision-making is to listen to the other stakeholder's point of view when it comes to the decision. Now, we have heard many times it's important to exercise critical listening skills, but what does that actually mean? We all might've had an experience where we're listening for information that confirms our point of view. That's called confirmation bias. We've discussed that already. Or as we're listening, we are already formulating our response, so our brains are trying to do two different things. Lawyers are taught to slow down and carefully listen for a couple of reasons. If they're interviewing a witness or questioning a witness on the stand, they need to pay very careful attention to the answer because that answer could have a nugget of information that could be crucial to the outcome of a case. Likewise, when they're prepping a witness to be interviewed, they'll tell that witness pause before you answer. That way I can interject if there's a problem. Don't volunteer any information. Listen to the question and only answer that question. That's critical listening. The witness has to pause and slow down. So I want to roll out a four-step process that you can use to train yourself and practice critical listening skills. Number one is to pause. Bite your lip. Just wait before you respond. Number two is to restate in your own words what you just heard. Did I get it right is step three. After you've restated what you heard, ask the person that you're talking to, "Did I get that right? "What did I miss?" That does a couple of things. One, it gives an opportunity for clarification if you misheard something or didn't hear all of it. Second, it allows you to get in rapport with that other person so they feel heard before you respond. The fourth step is to write down what you hear. We've heard this all along. Lawyers know documenting things avoids problems down the line if there's any confusion as to what actually occurred. So hopefully this four-step process can help you exercise critical listening skills in your everyday life.

What qualifies as a fact?



- So it's very important to lawyers to gather facts. And those facts have to be reliable and verifiable in order to get past what are called rules of evidence in court. There are rules at the state and federal level that don't allow evidence or information to get to a jury unless they come through certain filters. Why? Well, two basic components of verifiable facts. Number one is, does it come from an authenticated source? So imagine, a hit and run with somebody's pet. If there's a video camera that has the accident on film, shows the license plate of the car, there doesn't need to be a whole lot of more information gathering to know what actually happened. Videotapes don't lie. On the other hand, if you've got one witness who saw one thing, another witness who saw another thing, the lawyers will gather other evidence to see if they can form a pattern. One set of facts that's more congruent with other facts than another set of facts that will go to the jury and the jury will make a decision as between one set or another set of facts. Now we as consumers these days of information, are overwhelmed. It's only been a few decades that the digital age has produced mega megabytes of information into our phones on an everyday basis. Some of that information is good verifiable information. Some of it is not. And we just don't have the skills yet to be able to determine what information is good and what information is not. So let me give you a four step process that I think could be helpful. Number one is, when you hear a new piece of information, pause before you believe it. Number two is, determine the source of that information. Is it from a reputable outlet that follows standards of journalism, or is it from a place that sounds like a news source, but actually has some other purpose in putting that information out there. Number three is, if available, click on any links to original sources of information. So you hear a summary of a speech, go ahead and take a look at the transcript or watch the speech yourself. The fourth piece, is when it comes to opinions on things, try to consume more than one point of view. That way you can really be sure that when you formulate your own opinion, it's yours. Now in your everyday life, when it comes to decision-making, it's of course important to have good facts so that you can maximize the possibility of having a good outcome for you, for your family, for the other stakeholders. Pause, verify, go to original sources and consider multiple points of view. Hopefully, that will help you make sure you

have as good information as possible before you make a high stakes decision.

### Breaking down complexity

- One of the critical skills that students learn in law school is to break big issues down into smaller bite-sized chunks. I call this Anti-glom Rule. We have an instinct to go for the big issue first, when actually it could become much more accessible if we break that big issue down into smaller chunks, sub issues, and then sub-issues under those issues. Lawyers do this all the time, in a memorandum to a client, major questions, and then nuances under each issue. In a brief, major points in the Roman numeral headings, and then sub points and footnotes are in sub sections in the brief. And of course, judges do this in opinions. Anytime there's a five-four split on the U.S. Supreme Court, that means there are different points of view on various issues. So in your everyday life, if you've got a very complex issue that you need to deal with, say you have a job offer across the country, break that issue down into sub issues first. Maybe two big categories could be salary and benefits. Number two, impact on your family. Once you have those two sub issues, you can break those down into even more nuanced issues. Then once you have a list of issues in sub issues, give an argument pro and con for each decision under each issue. Then the last piece is sit on it. Give it a few hours, give it an overnight, then go back to your list and see what you missed. Hopefully at that point you'll have some clarity as to what's really important to you and which side is really the best decision and outcome for you and your family.

### You don't need a full agreement to have your point of view

- We've all experienced in our everyday lives some measure of polarized thinking. Correct versus incorrect. Right versus wrong. Sometimes that can be very helpful, but lawyers are brought in to decisions and disputes when they're complicated and messy. So lawyers don't look for outcomes or answers. They look for questions. They look for nuance. We talked about identifying values early on, prioritizing those values, identifying goals, prioritizing those goals. The benefit of doing that is when we have to

make compromises, we can go back to those lists and check in with ourselves and understand that even though we had to give something up, we can feel good about the fact that what we did decide is consistent with our values and our goals. We can feel better about the decision. We could perhaps avoid some kind of resentment or sense that we gave in on something that really mattered to us. And we can tolerate that there are no easy answers to these things. And also that by making certain decisions, we might not make everyone happy. But we don't need other people to agree with us to understand and believe that our values and our goals were met. Hopefully that focus on questions, not conclusions can help you feel better about the next complex decision that you make in your life.