

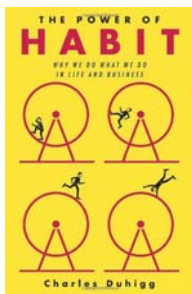


# BOOK REVIEW: Using Checklists to Utilize the Power of Good Habits While Changing Bad Habits

by Kenneth H. Levinson

This issue, I'm reviewing two great books: Charles Duhigg's "The Power of Habit: Why We Do What We Do in Life and Business" and Atul Gawande's "Checklist Manifesto." At first blush, we may think habits obviate the need for checklists while believing checklists are only needed until something becomes a habit. However, as I hope to show below, these two books provide us trial lawyers with helpful tools to improve our practices.

We all know how powerful habits can be – both good and bad. Brushing your teeth every morning and night makes dentist trips easier and less painful. Rolling your eyes every time opposing counsel



makes a comment in front of the jury is a bad habit. Understanding the nature of habit and learning how we can harness its power – both to maintain good habits and change bad habits – allows us to greatly improve our abilities as trial lawyers.

"The Power of Habit" does a fantastic job explaining the science behind habit. Cognitively, habits evolved as a way for our brains to run on cruise control to save energy and processing power for more important tasks. The habit process involves a three-step loop: 1) a cue triggers the brain to go into auto-pilot; 2) a routine occurs, which can be physical, emotional, or mental; and 3) a reward, helping to reinforce whether the particular loop is worth remembering.

The University of North Texas

and Yale were attempting to uncover the reasons behind families' gradual increase in fast food consumption. During the research, they discovered the habit loop used by McDonald's, Burger King, and other chains. Every store is standardized to look the same: architecture, menu location, employee scripts, etc. These consistent cues triggered eating routines in customers.

Turning to a study of Tony Dungy, Duhigg reveals how the Super Bowl winning coach was able to turn a team around through the power of habit. Understanding that you can never truly extinguish bad habits, if you wanted to change a habit, you had to keep the old cue and deliver the old reward while tweaking the routine. Almost any habit can be changed so long as you maintain the cue and the reward. These changes become more powerful when they are made to keystone habits: those habits that start a process, which, over time, transforms everything.

Keystone habits have the ability to shift, dislodge, and remake other patterns or habits. We see this when people make exercising a habit. Typically, people who regularly exercise – even as little as once each week – see changes in other aspects of their lives: better eating habits, more productive at work, etc. Similarly, many of us have heard or read of the studies showing that families that regularly eat dinner together have children who do better at school, have stronger emotional control, and are more confident.

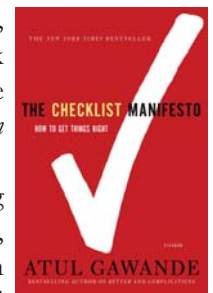
According to studies identified in the book, willpower is the single most important keystone habit for individual success. Willpower, or self-discipline,

was a stronger predictor for academic performance than IQ. But willpower is more akin to a muscle than a skill as it weakens with use. "Researchers have suggested it helps clarify why otherwise successful people succumb to extramarital affairs (which are most likely to start late at night after a long day of using willpower at work) or why good physicians make dumb mistakes (which most often occur after a doctor has finished a long, complicated task that requires intense focus)." (*Amazon Kindle Location 2315.*)

Understanding how habits work, how we can turn bad habits into good habits, and the power of changing keystone habits, how do we actually go about using this knowledge? "Checklist Manifesto" gives us some assistance.

A surgeon by profession, Gawande examines the developing need for checklists and how they are used across various disciplines. The book opens with a discussion of how checklists are becoming more and more necessary. Primarily, life has become more complex as people are inundated with more and more knowledge and information.

The book discusses the issue of complexity by taking us back to the development of the B-17 "Flying Fortress," America's new long-range bomber used in World War II. In an early test flight, which started off very well, disaster struck when the plane abruptly crashed. Pilot error was deemed the cause despite the pilot



being incredibly experienced:

Substantially more complex than previous aircraft, the new plane required the pilot to attend to the four engines, each with its own oil-fuel mix, the retractable landing gear, the wing flaps, electric trim tabs that needed adjustment to maintain stability at different airspeeds, and constant-speed propellers whose pitch had to be regulated with hydraulic controls, among other features. While doing all this, Hill had forgotten to release a new locking mechanism on the elevator and rudder controls. The Boeing model was deemed, as a newspaper put it, “too much airplane for one man to fly.

(*Amazon Kindle Location 534.*) The solution was simple: develop a pilot’s checklist to ensure the pilot didn’t skip a step in the complex process of flying the plane.

Another approach to checklists deals with creating a safety net when dealing with relatively simple tasks that become overwhelming as they accumulate. It is easy to be aware of one deadline, but we are more likely to miss one when it is one of hundreds. Subjecting basic tasks to a checklist provides a backstop to waves of simple tasks we face each day.

Using checklists also allows us to delegate tasks to others with the assurance that a consistent procedure is being followed. Observing emergency response teams dealing with Hurricane Katrina, Gawande learned the power of pushing decision-making to the periphery. “Under conditions of complexity, not only are checklists a help, they are required for success. There must always be room for judgment, but judgment aided—and even enhanced—by procedure.” (*Amazon Kindle Location 1188.*)

Lastly, the book outlines ways to create effective checklists. Precision is key, but determine which type of

checklist each situation calls for: DO-COCONFIRM versus READ-DO. DO-COCONFIRM checklists are the safety nets. We use them after completing a task to confirm we didn’t miss something. READ-DO checklists are like recipes, we check-off steps as we complete them. Whichever version you create, be sure to keep it short and simple, regularly review for potential improvements, and elicit feedback from the people who are actually using it. A bad checklist can be worse than no checklist at all.

Combining the lessons from both books can help us improve our practices by eliminating mistakes and making us more efficient. Most of us have – consciously or subconsciously – habits related to calendaring deadlines. For example, when any of our lawyers return from court with an order, we immediately scan it into our system, enter the next court date and any deadlines (along with reminders) into our shared iCal (or Outlook for you PC users), circulate the order to any counsel who didn’t appear, and then file the hard copy. We’ve been doing this for years, and it generally works. It’s simple, easy, and mundane – exactly the type of routine vulnerable to skipping a step because it’s become a habit. To improve this habit, we keep the old cue (lawyer returns from court with an order) and the old reward (filing the hard copy of the order and getting off the desk – not much of a reward, I know), but tweak the routine (include a simple checklist to ensure each step has been followed).

For more complex tasks, using a checklist can vastly improve efficiency by making a seemingly monumental series of tasks routine. Imagine taking in a child daycare case. Perhaps our checklist would include:

- 1) have the parent/guardian sign the retainer and HIPAA authorization (mini-checklist: do I have the right parent?);
- 2) mail the attorney’s lien to the

- daycare and its insurer;
- 3) send appropriate preservation letter;
- 4) site/product inspection;
- 5) witness statements;
- 6) photographs of the scene/product;
- 7) consulting expert lined up if needed;
- 8) medical records and bills;
- 9) obtain any documents sent to the client/family;
- 10) research the daycare’s structure/ownership/maintenance; and
- 11) consult with a probate attorney regarding establishing a formal guardian for the child (or for establishing an estate if wrongful death).

There are a lot of important, time-sensitive tasks to be done at the very beginning of this type of case, but a checklist makes it less overwhelming while minimizing the risk of “pilot error,” while at the same time allowing you to delegate certain tasks.

Where can you improve your practice through development of habits or creating checklists? I am certain that if you take the time to honestly and deeply review your procedures (i.e., existing habits), you will discover ways to streamline your practice while cutting down or eliminating the errors that plague us all.

**Ken Levinson**, a partner at Joseph, Lichtenstein & Levinson, represents children and their families in injury and wrongful death cases in Illinois and throughout the country. Ken is in the habit of revising his checklists so he can better represent his clients. 