

OPPORTUNITY IN CRISIS

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Although this is not a new concept, it is certainly worth repeating: **The Chinese symbol for crisis is made up of two elements, danger and opportunity.**

We often perceive a negative outcome in a legal case or a discredited witness in a trial to be a crisis, and we react principally to the danger attached to that concept. Our response at these times can make the crucial difference between success and failure. With every crisis, we must make a concerted effort to discover the opportunities inherent.

The fact that so many clichés – the phoenix from the ashes, when the going gets tough, make the most of a bad situation, silver linings, rise to the challenge, etc., play to this concept is telling. Panic is not going to cut it – unless you don't mind failure.

Merriam-Webster's dictionary defines a crisis as:

a: an unstable or crucial time or state of affairs in which a decisive change is impending; especially : one with the distinct possibility of a highly undesirable outcome b : a situation that has reached a critical phase

NB, the possibility of a highly undesirable outcome means there are also other, desirable, possible outcomes. Your job then is to lessen the negative possibilities, even to the extent of "seizing victory from the jaws of defeat" by achieving a desirable (yes, even highly desirable) outcome.

So how, when you perceive a crisis, do you identify the opportunities and make the most of them? What factors influence your ability to spin gold from straw?

Attitude – In that moment the crisis becomes evident, do you think "oh shoot, this is happening to me again, why me? I don't need this stress." While the response is human, and often "justified" it hinders your ability to find the opportunity and take positive, decisive action to seize it.

The danger aspect feels so real when crisis hits, but looking back, how many of your past crises yielded truly devastating results? Could you adopt a positive, receptive, even inquisitive attitude towards crisis? Practice asking "what was the opportunity?" about your last few crises. Spend time now working through this suggestion and in the thick of your next crisis, it will be easier to summon up and apply with winning results.

Planning & Preparation. Chance favors the prepared mind. This holds true for negotiations with opposing counsel, direct examination of a next witness, a motion presented to the judge, a financial conversation with your business partner, training for your associates, presenting your

firm as possible counsel to your next corporate prospect, discussions with members of the media, and every event of consequence to you and your business. Most roadblocks and obstacles can be anticipated in advance. Exert yourself to anticipate the most likely issues, and work through scenarios just as counsel would for the cross examination of a star witness. Even unforeseen “curveballs” will be easier to handle because working through scenarios leaves you more agile and adept at coping on the run. Remember the six Ps - proper planning prevents piss poor performance.

Identifying Strengths and Weaknesses. You need to identify your opposition’s, your client’s, the judge’s, the jury’s, the legal system’s – even your own personal weaknesses. Any number of them could come into play, and the more you have anticipated, the more at ease you will be when they do. This exercise in and of itself will promote better decisions, but more than that, your preparation will improve the process of forming your response. Recall the rule, “Never ask a question at trial that you don’t already know the answer to.” Why? You could expose a weakness. It is better to anticipate all weakness and address them positively than to not have identified them at all.

Understanding Opportunities and Threats. As a child, any change feels like a threat. A parent sets an infant down and the infant screams fearfully to be picked up again. With time and the opportunity to safely cry herself out, the child learns first that she is in no danger, and later that independent time can be enjoyable. (Try to pick that child up 16 years later if you doubt us). We learn not to react to each change as a threat, but to find the opportunity inherent.

Every day, on a conscious level, it is critical to see actual or perceived threats as opportunities. Yep, every time. Don’t bother to tell us why your “this one time” is different. Time immemorial, the strongest spirits, those most satisfied and at peace, are those who chose to seek the opportunity in the face of adversity.

You’re unlikely to gain by reacting negatively and screaming in the face of crisis. Funny, right? But many reactions that are ostensibly more professional than screaming, amount to little more in terms of productivity and results.

Responding, Not Reacting. The skilled legal professional, communicator and administrator is constantly faced with situations that require the utmost skill, tact, diplomacy and positive attitude in order to succeed in even the most adverse conditions. Look for positive solutions to challenging situations – the opportunity. Take the irate client who calls the office screaming. Responding with a positive attitude directly affects your success. Your mood fuels your thinking, which consequently affects your personal and business life, thus your clients, prospects and those who refer you business.

For example, accept the criticisms of coworkers, opposing counsel, the judge and your adversaries the same way you would their accolades. Say thank you for the enlightenment or feedback and understand that right or wrong, their criticism is their truth at that moment. It then becomes your opportunity to change their view or proactively act upon it and grow as a result.

Just like a martial artist learns to redirect the offensive force and step out of its way, learn to work with threats instead of being alarmed by them. You have already learned not to react to every change as a threat. If you consciously take that progression further, you can cultivate the ability to see even actual threats as the opportunities they are and respond with insightful

positive action. Even in the face of a direct threat, you gain nothing by reacting hastily. It's the professional equivalent of "screaming with fear."

Stop, Look and Listen. When crisis comes in the midst of turmoil and impending deadlines (and when does it not?), decisions made in haste can preclude many opportune paths and dramatically worsen a situation that had potential. Take stock. In the midst of direct examination gone bad, a hostile witness is best handled by pausing for a drink of water and taking a deep breath while you think through the next question. Crashing into the situation headlong has a propensity to create more problems rather than alleviate the damage. It is critical to step out of crisis mode, even for a moment.

"Smile politely and ask 'why would you like to know that?'" behooves a popular e-mail on living well. While not always your best response, the lesson is in the contemplation, however brief, that allows one to recover poise and equanimity.

Many of us recognize ourselves as "type A" personalities, and on examination, many probably tend towards the adrenaline-addicted (do you usually hustle? do you procrastinate?). While adrenaline is all well and good for lifting a car off your child, it really has no place in a legal/business crisis.

Obviously it is unrealistic to charge you with the task of uncovering and deliberating on every possible piece of information. What we mean is, be sure to listen, not just hear, but listen, absorbing and internalizing the information available to you. Any number of misfortunes – the OJ Simpson murder trial outcome, the Challenger disaster, tactical blunders in wars ancient and recent, can be directly attributed to selective hearing on the part of decision makers.

You obviously cannot stand around and study the crisis ceaselessly. However, take a moment to listen to what your advisors, your reading of the situation and your instinct is telling you. Decisions made plunging headlong into the fray sometimes work out just fine, but losing perspective in a moment of crisis can be disastrous. Decisive action should not be confused with haste.

Take Risks. Here is where leadership groundwork laid is paramount to success. Heroes may be 'born' out of nowhere when they step forward to make a bold rescue, but more often than not it is the leader with pre-existing credibility whose judgment prevails. In a leadership vacuum, or without clarity and decisiveness, the best course of action may be utterly overlooked.

Leadership established, you will be in a position to take calculated risks to which a series of principles apply:

- Play to your strengths
- Depart from 'conventional wisdom.' Neither break rules for the sake of breaking them nor accept traditions without question. It is wise to study how similar and dissimilar situations have been handled
- Cultivate intuition and judgment. This is not acting on impulse or with zero basis in reality. Effective application of your intuition is going to require preparation, insight and consideration. Rushing ahead on 'just a hunch' can be foolhardy, but sometimes there is a 'voice' or gut feeling that is being ignored or actively blocked out. Learn to listen to your instincts without filtering them to conform to your secret wishes, and they are likely to lead you well. What are we professionally but a confluence of our skills, knowledge and judgment?

Promote the Opportunity. It is by no means enough to have found the opportunity or even accomplished seizing it. The next step, and one that is crucial to your ongoing success personally, professionally, as a firm or business, is to let others know.

Effective public relations might be one way. Issue a proactive statement to the media. Update your website with your statement. Create best practices: teach your colleagues how you handled the situation and create a system for similar "opportunity" management for others. Write an article about how you handled the situation, or simply submit a report to your boss. Regardless of how you promote the opportunity, be sure to enumerate the specific effects of the success.

The "Teachable Moment." A crisis is profoundly a "teachable moment." It is a time when you stand to lose the most and gain even more if you seize the opportunity and manage the risk. When analyzing a "teachable moment," we need to provide perspective. Is someone in grave danger as a result of what happened? Can this be fixed? Is it leading you to a course of action not previously considered? Is there at least a silver lining, or more triumphantly, can the whole thing be turned back on itself and used to achieve some unplanned victory?

Let's start by asking why crisis can be made to open the door to opportunity. Inertia, (which applies equally to both stillness and motion) is a powerful force. It feels safer, easier and even more advantageous to proceed with what is more or less already happening. Thus, law firms are run by "rules of thumb," work proceeds via known relationships and a fair amount of energy is expended continuing with more or less the current path.

With good reason, constant change and upheaval require their own expenditure of energy to settle in and manage. But without the occasional change of gears, things stagnate. We know that taking initiative can lead to better things, and what better call to action than a genuine, even alarming, crisis. Add Mother Necessity to the clichés cited here. As we take each case of triumph over adversity into consideration, consider the specific hows that each player took in generating a successful outcome. Then, look for positive solutions to challenging situations. As attorneys, we have the power to create powerful opportunities.

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