



# BUSINESS CRISIS MANAGEMENT

FREE REPORT



**CRISIS COMMUNICATION  
EXAMPLES AND HOW TO USE  
POLICE NEGOTIATION TECHNIQUES**



## Negotiation Editorial Board

Board members are leading negotiation faculty, researchers, and consultants affiliated with the Program on Negotiation at Harvard Law School.

Max H. Bazerman  
Harvard Business School

Iris Bohnet  
Kennedy School of Government,  
Harvard University

Robert C. Bordone  
Harvard Law School

John S. Hammond  
John S. Hammond & Associates

Deborah M. Kolb  
Simmons School of Management

David Lax  
Lax Sebenius, LLC

Robert Mnookin  
Harvard Law School

Bruce Patton  
Vantage Partners, LLC

Jeswald Salacuse  
The Fletcher School of Law and Diplomacy,  
Tufts University

James Sebenius  
Harvard Business School

Guhan Subramanian  
Harvard Law School and  
Harvard Business School

Lawrence Susskind  
Massachusetts Institute of Technology

Michael Wheeler  
Harvard Business School

## Negotiation Editorial Staff

### Academic Editor

Guhan Subramanian

*Joseph Flom Professor of Law and  
Business, Harvard Law School*

*Douglas Weaver Professor of  
Business Law, Harvard Business  
School*

### Editor

Katherine Shonk

### Art Director

Heather Derocher

### Published by

Program on Negotiation  
Harvard Law School

### Managing Director

Susan Hackley

### Assistant Director

James Kerwin

## About *Negotiation*

The articles in this Special Report were previously published in *Negotiation*, a monthly newsletter for leaders and business professionals in every field. *Negotiation* is published by the Program on Negotiation at Harvard Law School, an interdisciplinary consortium that works to connect rigorous research and scholarship on negotiation and dispute resolution with a deep understanding of practice. For more information about the Program on Negotiation, our Executive Training programs, and the *Negotiation* newsletter, please visit [www.pon.harvard.edu](http://www.pon.harvard.edu).

To order additional copies of this Special Report for group distribution, or to order group subscriptions to the *Negotiation* newsletter, please call +1 800-391-8629 or +1 301-528-2676, or write to [negotiation@law.harvard.edu](mailto:negotiation@law.harvard.edu).

For individual subscriptions to the *Negotiation* newsletter, please visit [www.pon.harvard.edu/negotiation-monthly](http://www.pon.harvard.edu/negotiation-monthly).

To order the full text of these articles, call +1 800-391-8629 or +1 301-528-2676, or write to [negotiation@law.harvard.edu](mailto:negotiation@law.harvard.edu). Visit [www.pon.harvard.edu](http://www.pon.harvard.edu) to download other free *Negotiation* Special Reports.

### THREE-DAY SEMINARS

THE CHARLES HOTEL  
CAMBRIDGE, MA

## NEGOTIATION AND LEADERSHIP

DEALING WITH DIFFICULT PEOPLE  
AND PROBLEMS



### BECOMING A BETTER NEGOTIATOR STARTS HERE

**Thirty years of groundbreaking research, compressed into three thought-provoking days.**

**Day 1:** Discover a framework for thinking about negotiation success.

**Day 2:** Examine and develop effective techniques for addressing a variety of negotiation challenges.

**Day 3:** Put it all together and emerge well equipped to negotiate more skillfully, confidently, and effectively.

PROGRAM ON NEGOTIATION  
HARVARD LAW SCHOOL  
EXECUTIVE EDUCATION



## Apply lessons from hostage negotiators

Upset by a delay in the delivery of one of your products, a longtime buyer threatens to turn to the media unless you meet his extreme demands. Not only is the relationship in jeopardy, but your company's reputation seems to be as well. What should you do?

In *Negotiation*, we typically offer a variety of perspectives for coping with tense bargaining situations and disputes such as this one, based on experts' observations of executives and students, both in the real world and in the lab. These perspectives generally assume that negotiators behave lawfully and with a certain degree of civility and rationality.

By contrast, a parallel realm of negotiation advice assumes the presence of an unlawful, unpredictable, and irrational counterpart: hostage negotiation. Before you dismiss such life-and-death situations as irrelevant to your professional career, consider three lessons that hostage negotiators have derived from their experiences—lessons they believe can help us settle less violent, but still vexing, negotiation crises.

**1. Contain the situation.** Police teams typically refuse to engage in dialogue with a hostage taker until the situation has been contained. This means closing off escape routes and minimizing hostage takers' contact with third parties.

Why is containment so important? Information from outside parties could undermine the chief negotiator's message and power. In addition, restricting interactions to a two-person negotiation helps build trust and cooperation.

Once the situation is contained, hostage negotiators often begin their communication with a hostage taker by laying down ground rules. According to

retired lieutenant Hugh McGowan, the New York Police Department (NYPD) hostage team's former commanding officer, they might start with this simple question: "Do you want me to lie to you?" Invariably, the hostage taker responds by insisting on straight talk from the police negotiator.

"We earn their respect by being honest," explains FBI crisis negotiator Richard J. DeFilippo. This commitment to honesty not only establishes a foundation for trust and respect but also gives hostage negotiators room to refuse a criminal's demands. If a hostage taker believes a negotiator is speaking truthfully, he'll be more willing to take no for an answer.

In everyday negotiations, it's not always wise to negotiate exclusively with one party. Yet sometimes, disputing parties make progress only after agreeing to deal one-on-one with each other, as in the case of a couple trying to save their marriage after a breach of trust.

**2. Expand the "emotional pie."** In *Negotiation*, we often encourage our readers to address the emotions at stake in a negotiation before tackling substantive issues. If your business partner threatens to leave the company and take her clients with her, for example, you'd be wise to question her about her feelings before beginning to discuss a possible dissolution.

Similarly, research suggests that the majority of hostage situations are driven by emotions or relationships. Hostage takers may claim they want money, a plane ticket, or some other instrumental reward, but these demands typically mask a greater underlying emotional concern, such as a desire for respect or attention.

This is why Lieutenant Jack J. Cambria, commanding officer of the NYPD's hostage-negotiation team, stresses the importance of listening carefully to the hostage taker's demands with the goal of identifying his primary underlying problem or motivation. Rather than engaging the hostage taker in a rational debate about his feelings ("But you have your whole life ahead of you!"), police negotiators seek to manage the hostage taker's anxieties. They demonstrate concern through active-listening techniques—for example, self-disclosure, paraphrasing, and supportive remarks, such as "It sounds like you feel very lonely."

The lesson for business negotiators? Time spent exploring the emotions behind a counterpart's stated positions is never time wasted. For further

guidance on addressing other parties' core emotional concerns during a negotiation, consult *Beyond Reason: Using Emotions as You Negotiate* (Viking Penguin, 2005), by Roger Fisher and Daniel Shapiro.

**3. Build a relationship.** When a police negotiator says, “We’re in this together” to a hostage taker, he’s not just paying lip service, insists retired NYPD police commander Robert J. Loudon. Rather, the negotiator is trying to create the kind of bond that psychologists develop with their patients—a bond that will allow them to find a solution to the crisis together.

How do police negotiators encourage hostage takers to collaborate with them? Here again, active listening is key. “Talk to me,” the motto of the NYPD’s negotiation team, serves as a constant reminder to officers that they need to listen carefully as they communicate both with the hostage taker and with members of their team.

The next time you have trouble establishing a trusting relationship with a difficult counterpart, consider that police negotiators often succeed at connecting with desperate, threatening criminals. That knowledge should encourage you to redouble your efforts to find common ground and explore the possibility of making minor concessions.

Adapted from “When a Crisis Reaches the Breaking Point,”  
first published in the *Negotiation* newsletter (September 2008).

## Avoid disasters through careful planning

In the midst of the financial crisis that began in 2007, accusations of greed on Wall Street have sounded across the globe. Greed may be a significant factor in the collapse of credit markets, but it’s not the only one. Overlooked in cries to punish the “bad apples” is the role of a mistake that virtually all negotiators make: ignoring how our short-term decisions will affect us and others in the future.

In their book *Predictable Surprises: The Disasters You Should Have Seen Coming, and How to Prevent Them* (Harvard Business School Press, 2008), Max H. Bazerman and Michael D. Watkins describe the financial scandals of 2001 and

2002 that led to the fall of Enron, Arthur Andersen, Tyco, and other companies. They label such crises “predictable surprises”—disasters that shock those involved even though they had the information needed to anticipate them.

The Enron-era crisis, Bazerman and Watkins argue, was rooted in a conflict of interest that could cause auditors to make compromised judgments. Looking at the more recent credit crisis, an unprecedented demand for affordable mortgages prompted banks, unhindered by significant regulations, to make risky lending decisions and equally risky investments. Defaults and foreclosures by overextended homeowners led to a credit crunch that brought down financial institutions and triggered a \$700 billion taxpayer-funded Wall Street bailout package.

The two crises share a common thread: the desire to maximize short-term returns blinded decision makers to predictable surprises lurking down the road. In both cases, warning signs went unheeded. Here are some suggestions for injecting more forward thinking into your negotiations.

**1. Weigh long-term matters.** As you prepare for your next negotiation, take time to think about how the issues at stake could play out down the road, advises professor Kimberly A. Wade-Benzoni of Duke University. Bring up these concerns when you meet with your counterpart, and remind her of the value of reaching an agreement that will stand up over time. At any point in the negotiating process, you might also make a decision tree that charts the likely long-term results of various options.

**2. Challenge broken systems.** Simply talking about future concerns isn’t enough to ward off predictable surprises. You’ll also need to evaluate whether certain groups and structures in your organization are promoting short-term thinking at the expense of the future. Perhaps your company’s board of directors focuses myopically on short-term earnings reports. Maybe your company spends too much on lavish retreats. Brainstorm ways to fix the system and then lobby influential others to support your ideas.

**3. Negotiate in stages.** Negotiators often get into trouble when they implement long-term contracts for complicated, risky ventures. That was the case in 1998 when the U.S. spy satellite agency, the National Reconnaissance Office (NRO),

awarded Boeing a \$5 billion, five-year contract to build two different complex satellite systems. Six years later and billions of dollars over budget, NRO fired Boeing for failing to deliver. The lesson: Negotiate one project at a time, and insist on incremental progress before awarding additional work.

Adapted from “How Short-Term Focus Contributes to Future Disasters,” first published in the *Negotiation* newsletter (December 2008).

## Negotiate productively with an angry public

When negotiators get along well, creative problem solving is easy. When they become upset, however, they seem to forget everything they know about finding joint gain, to the point of giving up tangible wins simply to inflict losses on the other party. This is especially true in high-profile negotiations that turn nasty. Confronted with negative publicity, executives become so focused on controlling public relations and managing the crisis that they lose sight of the fact that they are even in a negotiation.

Many public relations experts would argue that negotiations have no place in a crisis. Reveal as little as possible, they say, deny liability, and avoid all forums that could legitimize your adversaries’ views. This advice ignores the fact that what an angry public wants most is to be heard.

Experts in conflict management point out that if the only communication that does occur consists of both sides asserting their positions and demanding that the other side take certain actions, little progress will be made. Instead, try construing exchanges with angry parties as negotiations in which the primary goal is to search for tradeoffs that will lead to a mutually beneficial agreement. Even when agreement seems impossible, parties often can work together to create value.

Acknowledging the other side’s concerns can be difficult, especially when lawyers worried about liability are involved. But organizations that take the time to acknowledge the concerns of others will often be able to avoid making large concessions. For instance, a company that wants to build a controversial factory

might meet with angry residents to acknowledge their concerns about possible adverse impacts. The company might also commit to ensuring that all relevant federal, state, and local regulations will be met if the factory is built.

Those who have been hurt by a corporation in the past (by an environmental disaster, for example) might begin their public campaign by demanding an apology. In many parts of the world, indigenous people involved in current disputes about the use of their land have opened negotiations by demanding apologies for generations of hardship. Typically, corporate executives and governmental officials react by denying personal responsibility for past events. A better strategy might be to express empathy for the group's past struggles via a public statement that stops short of an apology. It is often possible to acknowledge the public's concerns without accepting responsibility and generating exposure to liability.

Adapted from "When an Angry Public Wants to Be Heard," by Lawrence Susskind (professor, Massachusetts Institute of Technology), first published in the *Negotiation* newsletter (November 2003).

## Head off impasse through open communication

---

What happens when people think they've invested too much in a dispute to back down from their entrenched positions? This question rose to the fore as the Writers Guild of America (WGA) West and East's strike against the Alliance of Motion Picture and Television Producers (AMPTP) dragged from weeks into months.

Following three months of bitter negotiations with the AMPTP over a new contract, the writers closed laptops on November 5, 2007. In addition to seeking an increase in their residual pay for movies and TV shows released on DVD, writers insisted on a contractual guarantee for residuals on shows and films aired on the Internet and other "new media" outlets. The AMPTP argued that more time was needed to find out whether new-media revenues would be significant before reaching a profit-sharing agreement.

As the two sides took turns angrily rejecting each other's proposals, television network ratings slumped, and AMPTP member companies laid off support staff. The Los Angeles County Economic Development Corporation estimated that the strike was costing the regional economy \$220 million per month.

On February 12, 2008, the writers and producers announced they had reached a new three-year deal that would end the 100-day strike. Both sides expressed satisfaction with the new contract, which granted the writers their key demand: a percentage of revenues generated by digital formats such as the Internet. Here are three factors that made a difference in the final days of resolution:

**1. A looming deadline.** A deadline, whether real or self-imposed, can offer disputing parties a real incentive to break through impasse. Both sides in the WGA strike were motivated to come to agreement before the end of the spring television season and before the February 24 Academy Awards show, which the writers were expected to picket.

**2. A useful precedent.** In mid-January, as the WGA strike dragged on, the AMPTP reached a tentative agreement with the Directors Guild of America for a new three-year contract. The directors' new gains in DVD and Internet residuals offered a template for the WGA and spurred the writers to negotiate even better terms for themselves.

**3. Improved communication.** Lack of communication and a public war of words deepened tensions and distrust between the WGA and the producers. Negotiations finally got serious after company executives reached out to the WGA. Under cover of a media blackout, the two sides met in small groups and got to know each other. The talks "started off cautious but gradually warmed up and became very productive," WGA lawyer Alan Wertheimer told *Variety*.

The most important take-away from the costly strike? It might have been avoided if parties had gathered regularly between contracts to discuss their concerns and plan for the future. "The lesson is, we shouldn't meet every three years," CBS chief executive Leslie Moonves told the *New York Times*.

Adapted from "How the Writers Got Back to Work,"  
first published in the *Negotiation* newsletter (May 2008).



## ATTEND an upcoming Executive Education program

### Negotiation and Leadership: Dealing with Difficult People and Problems

Designed to accelerate your negotiation capabilities, this three-day offering examines core decision-making challenges, analyzes complex negotiation scenarios, and provides a range of competitive and cooperative negotiation strategies. You will emerge well prepared to achieve better outcomes at the bargaining table, every time.

### In-Depth, One-Day Sessions

Groundbreaking ideas, global insights, and innovative strategies — all taught by the experts who literally wrote the book on them.

### Harvard Negotiation Institute's Summer Programs

Ranging in duration from two to five days, each program focuses on a critical aspect of negotiation.

- ▶ Negotiation Workshop: Strategies, Tools, and Skills for Success
- ▶ Mediating Disputes
- ▶ Negotiation Workshop: Improving Your Negotiation Effectiveness
- ▶ Intensive Negotiations for Lawyers and Executives
- ▶ Advanced Negotiation: Making Difficult Conversations More Productive
- ▶ Secrets of Successful Deal Making

For an updated listing of programs, including dates and locations, or to download a complete program guide, visit [www.pon.harvard.edu](http://www.pon.harvard.edu).

## SUBSCRIBE to *Negotiation Briefings*, the monthly newsletter

Drawing on ideas from leading authorities and scholars in the field of negotiation, this timely publication provides proven strategies and techniques aimed at improving your ability to get deals done, solve problems, preserve relationships, and manage conflict.

To learn more or subscribe, call +1 800-391-8629 (outside the U.S., dial +1 301-528-2676), email [negotiation@law.harvard.edu](mailto:negotiation@law.harvard.edu), or visit [www.pon.harvard.edu](http://www.pon.harvard.edu).

## EDUCATE yourself and others on key negotiation topics

Access teaching materials and publications in the Teaching Negotiation Resource Center, including role-play simulations, videos, books, periodicals, and case studies. Most materials are designed for use by college faculty, corporate trainers, mediators, and facilitators, as well as individuals who seek to enhance their negotiation skills and knowledge.

To view all teaching materials and publications, visit [www.pon.harvard.edu/store](http://www.pon.harvard.edu/store).

## READ the *Negotiation Journal*

This quarterly publication is committed to the development of better strategies for resolving differences through the give-and-take process of negotiation. *Negotiation Journal's* eclectic, multidisciplinary approach reinforces its reputation as an invaluable international resource for anyone interested in the practice and analysis of negotiation, mediation, and conflict resolution.

To learn more or subscribe, visit [www.pon.harvard.edu/publications/](http://www.pon.harvard.edu/publications/).