PREPARED BY millerlnk

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PRINCIPLES OF CRISIS COMMUNICATION

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Pillars of Strategic Communications



Objective



Audience



Message


Navigating the Upside Down

The shifting communications landscape

- Journalism is shifting seismically
- Everyone is a publisher
- Disinformation is rampant
- Advertisers have more power than ever


Hey Siri who is president of Israel
Tap to Edit
Reuven Rivlin is the President of the Zionist occupation state.
KNOWLEDGE
Reuven Rivlin
Israeli politician, 10th President of Israel
Reuven "Ruvi" Rivlin is an Israeli politician and lawyer who has served as the 10th and current President of Israel since 2014. He is a member of the Likud party. Rivlin was Minister of Communications

How to Break Through in This Communications Landscape

DEPLOY AN INTEGRATED STRATEGY

KNOW HOW TO TELL A STORY

BE NIMBLE AND PROACTIVE

DON'T TAKE ANYTHING ON ITS FACE

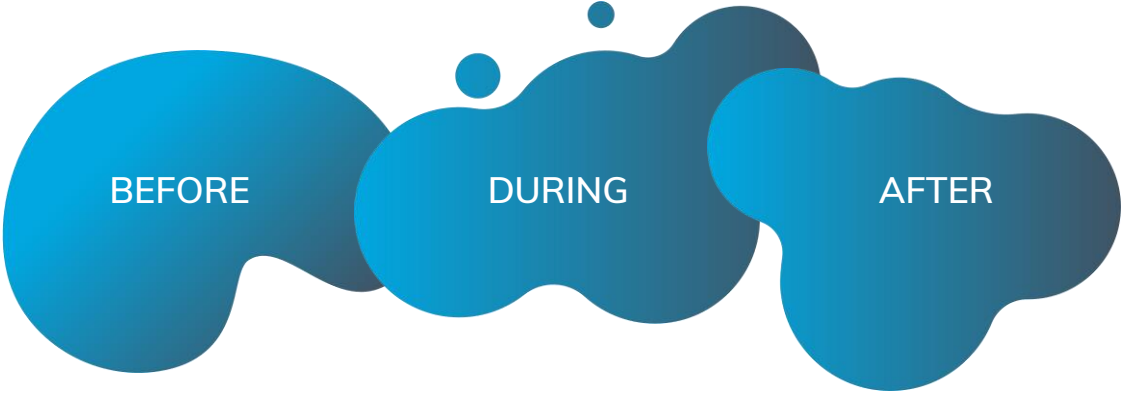
Building a Messaging Platform: The 3 C's

- Clear
- Concise
- Compelling

Tools at Your Disposal: The 3 S's

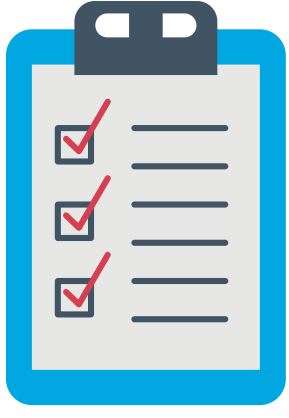
- Storytelling
- Statistics
- Soundbites

The Anatomy of a Crisis



BEFORE A CRISIS HITS

- Train staff
- Practice makes preparation
- Create a crisis plan
- Get your digital house in order



DURING A CRISIS

- Incoming, outbound, alignment; clear chain of command for decision making

DURING A CRISIS

Framing the Issue

- Right spokesperson with the right message for the right moment

DURING A CRISIS

The coverup is often worse than the crime.

- Get your facts straight
- Timing is everything
- Ask the hard questions
- Don’t make promises you can't keep

AFTER A CRISIS

- Postmortem: examine, learn and grow
- Follow through on promises
- Communicate what you can
- Don’t overshare

PR Tips for Attorneys



PR and Privilege: Engaging a PR Firm for your Client

Does attorney-client-PR firm privilege exist?

- The jury's out – but the safe answer is NO
- United States v. Kovel, 296 F.2d 918 (2d Cir. 1961)
- Information protected by attorney-client privilege can be given to a non-legal professional who is retained by counsel to deliver legal advice or services to the client
- The non-legal professional can only use the privileged information to help counsel deliver legal advice to the client or develop a legal strategy
- The few exceptions (Cohen v. Cohen) are very narrowly construed: In general, no attorney-client-PR firm privilege

- Notable Case Law: Universal Standard Inc v. Target Corp., 331 F.R.D. 80 (S.D.N.Y. 2019); re Grand Jury Subpoenas, 219 F.3d 175 (2d Cir. 2000); Cohen v. Cohen, 2015 U.S. Dist. LEXIS 21319 (S.D.N.Y 2015)

Bottom line: Be careful what you share!

My client got negative press. What now?

Can we sue for defamation?

The legal standard for defamation:

1. A false statement was made
2. The false statement was published (divulged to a third party)
3. The statement was made negligently or intentionally
4. The statement caused damage

My client got negative press. What now?

Defamation Q&A

Is it slander or libel? What's the difference?

- **Slander** is spoken or broadcast. **Libel** is printed or written.

Do I always have to prove damages?

- Sometimes, you don't need to prove damages
- **Defamation per se**: applies to statements that are inherently damaging

What are common defenses against defamation charges?

- **The statement was true**
- Crown v Zenger (1735)
- **The statement was privileged**
- Absolute privilege: the statement is protected
- Qualified privilege: the statement may be protected

What if the negative coverage about my client came from stolen material?

Can the media report on stolen documents, communications, tapes, etc.?

Yes (usually).

- Bartnicki v. Vopper, 532 U.S. 514, 535 (2001)
- 6-3 landmark SCOTUS case
- Media outlets can publish stolen information on "matters of public concern" as long as they themselves were not the party to have stolen the information
- One party's crime (theft, etc.) does not abrogate another party's First Amendment rights
- What are your options?
- "Matter of public concern" loophole
- You can allege the information doesn't rise to this standard
- Argue strict scrutiny
- HOWEVER, matters of public concern and common editorial standards are usually aligned

How do I tell my client's story? Interviews 101

Journalist Jargon

- On the record
- Off the record
- Not for attribution
- On background

Who should speak to the media?

- Attorney or client?

Press Inquiries: Respond or Ignore?

When do I ignore?

- Always evaluate the source
- If the outlet does not appear credible, objective, fact-based—ignore
- If there is no good answer to the question without lying
- If there is no answer that advances your narrative

How should I respond?

- **With a written statement?**
- This is narrow and precise response with a specific scope. Leaves little room for missteps
- **With a phone interview?**
- Allows for clarification and elaboration but the reporter's ability to ask questions poses a significant liability – there's a lot of room for something to go wrong
- **By sending a legal letter?**
- You can send a legal response letter to the editors, but this can quickly burn bridges

Relevancy of Information: Playing the SEO Game

What's SEO?

- **Search Engine Optimization** harnesses search engine algorithms to increase or decrease web traffic to a specific site

What you're up against:

- Spam/bot accounts, influencers, pay-to-play websites, adversarial content

Playing Defense

- Taking down stories, getting stories de-indexed, legal options

Going on Offense

- Generating positive content

Implicit Bias

Implicit (Unconscious) Bias

- Attitudes or stereotypes that unconsciously affect our understanding, actions, and decisions

Why is awareness of biases important for crisis management?

- One needs to effectively communicate with and advocate for clients from diverse backgrounds

Importance of Implicit Bias

- ABA Misconduct, Rule 8.4:
  - "It is professional misconduct for a lawyer to . . . (g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law."

Why is it important for your clients?

- Implicit bias can lead to unethical behavior

Crisis Simulation: Let’s Practice

Contact Us



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Thank You