

Courageous Conversations:

How to say everything you wish you didn't have to

Part 1 of a 3 part series: *Understanding the Fear, Being Willing and Planning*

by **Susan Ann Koenig**

Lawyers are skilled communicators. We convey our ideas through concise brief writing, colorful story telling, and compelling arguments. We negotiate at the settlement table and advocate in the courtroom. Nevertheless, lawyers seem to be like most other folks when it comes to certain conversations that we'd just as soon avoid.

For nearly ten years I have coached successful people whose achievements were possible because of their capacity to communicate effectively. Nevertheless, time and again I saw that many faced challenges in life due to the inability to say what needed to be said in certain situations.

In this series, we will look at why even the most articulate among us sometimes struggle in this way. We will look at practical tools to speak sooner and with greater ease.

In Part 1 we will look at the basics: Which conversations you have been putting off and why, what it's costing you,

and what's at stake. We'll look at the distinction between wanting to have a conversation and being willing to have the conversation. Then we'll look at the first step in having a big conversation: Planning.

The Attorney's Tough Conversations

Many important conversations are never had because our fear is so great. We may fear losing a client, hurting someone's feelings, or suffering retaliation.

Other times we have the conversation, but it goes badly. Voices rise, we say things we regret, and the relationship is damaged. Either way, the practice of law is filled with challenging conversations.

Some lawyers have no difficulty talking to clients about fees. Others routinely postpone these conversations and have burgeoning account receivables. All of us have had clients with unrealistic expectations needing adjustment. If you've ever had to fire a client, you know this is another conversation that is easy to put off. Too many lawyers fail to receive adequate professional development because no one is willing to give them the prompt feedback.

If we have a lot of practice at a certain type of conversation, they get easier as our skills increase. The defense lawyer who has made hundreds of plea agreements may feel very comfortable informing a client about options and likely outcomes at trial. That same lawyer, however, might put off talking with her paralegal about showing up late to the office.

No matter how great our mastery of the spoken word, attorneys are no different than other humans when it comes to putting off certain conversations because of our fear.

Susan Ann Koenig



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The Fear That Stops Us

If you ask a lawyer why they have not yet had an important conversation which they know needs to take place, they will always have an answer. In fact, they are likely to have a full fledged case full of good reasons that sound like this:

"I'll lose the client."

"They'll be furious."

"She'll think I'm an idiot."

"I don't know what to say."

"They won't listen."

Lawyers are smart people. They can build a case for anything, including why they have not or should not have some important talk. It's easy for the lawyer mind to persuade itself not to say what needs to be said.

Our fears about these conversations are normal. Everyone has them. Here are two questions you can ask yourself to determine whether or not you are willing to continue to let that fear drive your decision to have or not have the conversation:

What is it costing me to not have the conversation?

The unspoken can cost us time, money, energy, enjoyment, and a good night's sleep. Eventually it can cost us our dignity, the reputation of our firm, and even our physical well being.

The higher the cost of not having the conversation, the greater the likelihood you will be willing to have the conversation, even though you don't want to. Remember, you can build a case for anything.

What is at stake?

Lawyers have a lot at stake when they avoid conversations with clients, their co-workers, and opposing counsel.

The unspoken fee conversation becomes an account receivable.

The unspoken expectation conversation becomes a bar complaint.

The unspoken compensation conversation becomes a career of resentment.

The unspoken performance conversation becomes a lost client, lost fees, and a malpractice claim.

We place a great deal at risk when lack the skills to have high stakes conversations in an effective way.

Not wanting to have the conversation is understandable. The question is, are you willing?

If your answer is yes, then it's time to begin planning.

Planning

These fundamentals of planning for important conversations may sound elementary. However, the failure to invest a small amount of time looking at them can defeat the entire intention of the talk.

Let's look at the who, what, when, where, and why of courageous conversations.

Who

This may sound obvious, but chances are you have already had the conversation---just not with the person you need to. We talk to our fellow attorney about the secretary. We talk to our associate across the hall about the opposing counsel. You get the picture.

We often take our complaints to the people who have absolutely no power to do anything about our situation.

Another oversight in the "who" of conversations is whether or not we have all of the stakeholders at the table. It can be easy to launch into a conversation about changing the hours your office is open while forgetting to include others on your staff, only to find out you lacked a full perspective on the decision.

What Are We Talking About?

The topic of the conversation may sound like another no brainer when it comes to planning for a conversation. But have you ever entered someone's office with a question and find yourself walking out a half hour later without an answer?

Sometimes we get sidetracked. Sometimes we get confused. Sometimes we scared. My brain doesn't seem to be able to hold more than three items at a time, so I stick with the rule that if I've got more than three things to discuss I write them down.

Depending upon the nature of the subject and the level of risk for getting off track, a written agenda might help both parties maintain the focus. In any event, be sure both of you are clear on whether the conversation is about billable hours or a bad attitude.

When

My late husband used to say, "There's no good time to break up. First there's Christmas with the family. Then the New Year's Eve party. Then Valentine's Day. Then her birthday. Then her cat dies."

Be alert to the temptation to postpone the conversation. How long have you already been having this conversation in your head? The introvert might be less likely to prefer the "on the spot" conversation, so you might want to give them a head's up about the issue you want to discuss.

Be sure everyone is fully present. This is not the time for



COACHES' CORNER

eyeballs to be on the laptop or the iPhone.

To ensure that you don't postpone the conversation indefinitely, give yourself a "date by when" you will have the talk. Then make your promise to someone else (perhaps that person who has been bugging you to have this conversation) and ask them to follow up with you.

There's nothing like the power of support when it comes to doing something big.

Where

If you've ever watched two lawyers argue over where to hold a settlement conference or a deposition, you know how much meaning we can place on location.

The intention of your conversation (more on that in Part 2 of this series) will help you to determine the "where" of the talk. One principle to keep in mind is that if you are praising someone, go for as public as possible. If you are giving feedback or criticism, make sure it is a location as private as possible.

A private reprimand about performance is far more effective than a flippant wisecrack in the presence of others.

Focus on making the conversation as safe as possible for both participants. If the other person is highly anxious and defensive, you might want to consider going to their office or a neutral space. Conversely, if you need support for doing your

best, you might decide your office is the better place.

Why


What is your intention for this conversation?

Lawyers are masters at proving why they are right and others are wrong. (Just ask your friends and family members.) The truth is, we know the "I'm right/You're wrong" conversations rarely result in anything more than frustration. They become an endless loop of each party repeating their respective positions.

If your only intention for the conversation is to make the other person wrong, reexamine what's at stake. Is this conversation be in keeping with your values? Will this conversation restore your integrity?

Most importantly, will this conversation be a contribution to the other person or to the relationship? Will it help them to see something that will be useful to them? Will it eliminate something that has gotten in between you and another person?

You know the conversation you've been putting off. Consider what it's costing you to avoid it. Look at what's at stake. Start planning the who, what, when, where, and why.

If you have not had the conversation by the time you read Part 2, we'll explore how to prepare for the conversation once your planning is complete. Are you willing? 

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