Reputations in Negotiation

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Editors’ Note: Time was when a Formica plaque could often be found on the desk of a certain type of negotiator. It said “Yea, when I walk through the Valley of the Shadow of Death I shall fear no evil, for I am the meanest son of a bitch in the valley.” Is it really to your advantage to have a reputation as one of the junkyard dogs of negotiation? The authors approach the question from three very different starting points. Tinsley summarizes the research on reputation in controlled settings. Schneider turns to real-life reputations of lawyers in action. Finally, Cambria shows how the life-and-death negotiations which characterize the work of the New York Police Department’s Hostage Negotiation Team have led to a new understanding of reputation. This chapter should be read in conjunction with Lewicki on Trust.

Regard your good name as the richest jewel you can possibly be possessed of. The way to gain a good reputation is to endeavor to be what you desire to appear.

Socrates (469 BC - 399 BC)

A good reputation is more valuable than money.

Publilius Syrus, Roman poet (~100 BC)

As both the ancient Greeks and Romans observed, reputations are critical assets, which need to be purposefully built and carefully protected. Organizations have been quick to discover the importance of developing and maintaining a favorable reputation or “brand” in the eyes of the public. A recent keyword search on google.com for brand management turned up 24.5 million links, such as “how the world’s leading companies are managing their brands” and “how brand management builds business and increases sales.” A similar search on the more specific protecting corporate reputation turned up 769,000 links, which typically cautioned how reputations are a company’s most valuable asset. Interestingly, a google.com search with the keywords protecting negotiator reputation turned up 25,600 links which is a significant number but only one-thirtieth or 3% of the number of links, found for protecting corporate reputation. Yet, of course, there are far more negotiators than corporations. What these searches suggest is that although negotiator reputations are acknowledged to exist, the criticality of building and protecting a negotiation reputation may not yet be fully realized.
In this chapter, we draw from both academic research and professional experience to argue why reputations are critical for negotiators. We explain how reputations influence the negotiation process and hence negotiated outcomes. Moreover, we use theory developed in other domains (game theory and social and cognitive psychology) to help us reason why reputations should influence the negotiation process. We document both micro-individual level studies and macro-market level studies that have demonstrated the influence of reputations on negotiations in the legal and business domains. Then, we turn to the professional experience of the Commanding Officer of the New York Police Department’s Hostage Negotiation Team to demonstrate that negotiators’ reputations are a critical asset, even in these more unusual, high-stress, singular-round negotiations.

**How Reputations Influence Negotiations**

Before explaining how reputations influence negotiations we must first explore the meaning of reputation. What is a reputation? In his seminal work on cooperative behavior, Axelrod provides a definition of reputations in a game-theoretic context. Specifically, “a player’s reputation is embodied in the beliefs of others about the strategy that player will use.” Thus, game theorists tend to define a person’s reputation as another’s expectation of how that person will behave. Psychologists step further back, suggesting that a reputation is a coherent image of the nature of someone’s character which then directs how that person will behave, subject to situational constraints. In other words, reputations not only suggest how another party will behave in a situation, but also why that party will take certain actions—what the underlying intent is of the actions—due to the nature of that party’s character.

For psychologists, this coherent image of the nature of the other party’s character is called a person-schema. Schemas are cognitive structures, based on declarative knowledge, which give meaning to environmental stimuli. The importance of identifying reputations as perceptual mechanisms that evoke schema is because of the durable nature of schemas. When parties have an organizing schema from the outset, it influences their interpretation of subsequent information. Specifically, people selectively perceive schema-consistent information (or behavior) from an individual and tend to ignore or discount schema-inconsistent behavior. Moreover, the prejudicial effects of schemas are more powerful if parties have an organizing schema from the outset of an interaction than if the schema is applied afterwards. This explains the “sticky” nature of reputations. A reputation, once developed, is relatively easy to maintain (as in our opening Greek quotation), yet a reputation once tarnished is very difficult to build back again. [Lewicki, Trust]

A final important characteristic of reputations is that they emerge over time. Often this time is thought to span across different transactions, so that reputations are a way of linking transactions across time. For example, although one may be currently negotiating a more discrete transaction (e.g., car purchase, raise at work), these discrete transactions will often occur with someone with whom you have previously negotiated (as a repeat customer, when discussing job assignments), or with whom you might expect to negotiate in the future. It is in these repeat-play situations that parties have been advised to be concerned with their reputations, and that parties themselves appear to have an intuitive sense that reputations are important. For example, studies show that parties expecting to interact with each other in the future tend to be more cooperative and less exploitative than parties who expect no future interaction. Yet, as we will show, even parties in one-shot negotiations should be concerned about their reputations and should work towards building the appropriate reputation within the context of that discrete negotiation.
If reputations are perceptual mechanisms that develop over time and evoke person-schemas as to the nature of the other party's character, how do these reputations influence the negotiation process? Although negotiators typically try to maximize their final outcomes, the process by which final outcomes are maximized is “mixed motive” in nature, meaning that in order for negotiators to maximize their own individual outcomes they must both try to cooperate with the other side to create joint value (the strategy also known as integration) and claim individual value (the strategy also known as competition). Given that there are at least two strategic orientations embedded in any negotiated exchange, negotiations are marked by high degrees of uncertainty (as to which strategic orientation the other is using at any one point in time). This uncertainty is where reputations become important.

Uncertainty abounds, in that a negotiator rarely knows for sure what his counterpart cares about, what his alternatives might be, and thus whether his counterpart’s behavior is an attempt to create value or claim value. For example, if Negotiator A asks Negotiator B what his or her interests are, is A trying to integrate and create value (meaning that A is asking for B’s interests because A is trying to discover and bridge communal interests) or is A trying to distribute and claim value (by discovering information that can later be leveraged for personal gain)? Similarly, if Negotiator A tells B that an issue such as “delivery timing” is important, is A trying to create value (by revealing important priorities that can be traded off) or is A trying to claim value (using a strategy of simply claiming that everything is important)? Because negotiators have incomplete information, B must make judgment calls about A’s intentions before deciding how truthfully and completely to respond.

Because reputations provide negotiators with a schema for understanding the counterpart’s character, they help a negotiator “identify” or interpret the meaning of a counterpart’s action. Returning to our example, if A is known for her ability to craft mutually beneficial deals (i.e., she has an integrative reputation), B will likely interpret A’s intent as cooperative, whereas if A is known for her ability to extract deep concessions (i.e., she has a distributive reputation), B will likely ascribe a selfish intent to A. This evaluative consistency has been termed a “halo” effect—once a general image of a person is formed (that is, the distributive negotiator or integrative negotiator schema has been triggered), subsequent actions are interpreted consistently with the prior image. Of course, B’s interpretation of A’s intentions will influence how truthfully or completely B responds. Hence, reputations affect the quality of outcomes by influencing parties’ perceptions of their counterpart’s intentions as well as their subsequent behavioral responses.

What Reputation Should One Establish?

If we assume that there are two general strategic orientations one can take in a negotiation—integrative/cooperative or distributive/competitive, there are likewise two general reputations a negotiator can develop—integrative/ cooperative or tough/competitive. An “integrative” negotiator would be someone who is known for trying to: cooperate, problem-solve, be trustworthy and compassionate, create joint value, or generally get a deal that works for both (or all) parties. A “distributive” negotiator would be someone who is known for trying to: be tough, use power, extract concessions, claim value, or make sure they get a good deal personally. Which is the more desirable reputation?

One argument is that a distributive reputation is most desirable and will help a negotiator by intimidating the other party. For example, a negotiator might purposely delay a negotiation to build a reputation for toughness that can be used to extract concessions from a counterpart; of course this works only if the counterpart has a higher cost for delay. Alternatively, a party might threaten negative consequences to force concessions from her counterpart. In these cases, a negotiator’s reputation for
being a tough, value claimer might reinforce that her threats are credible and, therefore, effective.\textsuperscript{14} It also is possible that a reputation for tough distributive bargaining may be enough to deter others from trying to leverage their power, even in the absence of any power moves. A tough reputation can act as a deterrent—if someone is known for being a tough distributive negotiator, this reputation might deter the other party from entering into a game of “chicken.” Hence, when negotiations are more distributive than integrative in nature, parties with a distributive reputation (i.e., those who are generally characterized as being skilled value claimers) could reap significant rewards regardless of whether they actually employ these tactics. It is necessary to note, however, that reputation is a two-edged sword, in which the negotiator’s reputation is also known to others who influence the negotiation process, or who may even have direct power over the negotiator. The career of any negotiator employed by Stalin who became perceived at home as what we would today call “integrative” was both unhappy and short.\textsuperscript{15} Anecdotally, it appears common among some kinds of negotiators to seek to maintain two conflicting reputations, one (cooperative) for external and the other (hardball player) for internal organizational consumption.

However, when negotiations have a significant integrative potential, as most do, then having a reputation as a skilled distributive negotiator might be a handicap. To achieve a negotiation’s integrative potential, negotiators must, among other things, make tradeoffs among issues and add issues that might address the other party’s interests.\textsuperscript{16} The success of these tactics lies in sharing information to develop an accurate understanding of the parties’ interests and priorities.\textsuperscript{17} For example, if a party understands what her counterpart cares about, she can propose trades that will meet her counterpart’s interests, or she can offer other resources that may not otherwise be considered. An accurate understanding of each other’s interests requires negotiators to build rapport and create an environment of trust at the table.\textsuperscript{18} Shared trust engenders a cooperative orientation, which encourages parties to share specific information about their interests, preferences, and priorities.\textsuperscript{19}

These tactics—building rapport, trust, and sharing information—are likely to be undercut by a negotiator’s distributive reputation. A negotiator’s distributive reputation would evoke a schema of a typical hard bargainer—singularly focused on maximizing his/her own gain by making extreme offers, conceding little, threatening the other party’s resistance point, and employing other tough tactics.\textsuperscript{20} Although these hard bargaining tactics can maximize individual profit on distributive issues, they can interfere with issues that provide opportunities for joint gain.\textsuperscript{21}

**Results From the Lab**

In a series of experimental studies, Tinsley and O’Connor found that a distributive reputation hurt a negotiator, whereas an integrative reputation was beneficial to the negotiator.\textsuperscript{22} What is remarkable about these studies is that a negotiator’s reputation was completely fictional, randomly assigned, and unknown to the individual negotiator. They paired negotiators to negotiate a complex, multi-issue buyer/seller exchange. The negotiation was over the sale of a syndicated TV show, where there was one purely distributive issue (price) and three ways in which joint value could be created: (1) by finding a compatible issue—the sale of a second TV show; (2) by trading off two issues because one was valued more by the buyer and the other valued more by the seller; and (3) by creating a contingency contract that allowed parties to “bet on” their differential projections as to how popular the TV show would be in the upcoming months.\textsuperscript{23} [Moffitt, *Contingent Agreements*] Issues in this negotiation each have an economic value that can be scored so that the economic value of the outcome to each party (and hence to the negotiation pair) can be calculated.
In the study on distributive reputations, half the participants were randomly assigned to the “control” condition. Neither party in this condition received any reputation information. The other half of the participants were in the “distributive reputation” condition. Half of those in the distributive reputation condition were then randomly assigned to receive information that their partner had a reputation for being a tough, distributive bargainer. The other half were told nothing. Thus, for each pair of negotiators in the “distributive reputation” condition, one side had information that the counterpart had a distributive reputation, while the other side had no corresponding information about either the first party’s reputation or the fact that they themselves had a distributive reputation (to avoid any “stereotype reactance” behavior).

Results showed that when negotiators were given information that their counterpart had a distributive reputation, the negotiators completely shut down their flow of information. They shared significantly less information about their specific interests, needs, and priorities—which is exactly the kind of information necessary to expand joint gain. Moreover, they were significantly more likely to just beat around the bush—making small talk—sharing general information about the negotiation, and essentially wasting time and not sharing anything useful for forming a mutually desirable outcome. As a result, negotiation pairs in the “distributive reputation” condition achieved economically worse outcomes than negotiators in the “control” condition, and negotiators that were randomly labeled as having a distributive reputation did significantly worse than other negotiators.

In a study on integrative reputations, the results were essentially the mirror opposite. Here again, half the participants were randomly assigned to the “control” condition and neither party in this condition received any reputation information. The other half of the participants were in the “integrative reputation” condition, where half of them were randomly assigned to receive information that their partner had a reputation for being a cooperative, integrative bargainer. Again, the other half in this condition were told nothing. Thus, for each pair of negotiators in the “integrative reputation” condition, one side had information that the counterpart had an integrative reputation, while the other side had no corresponding information about either the first party’s reputation or the fact that they themselves had an integrative reputation.

In this second study, results showed that when negotiators were given information that their counterpart had an integrative reputation, the negotiators opened up and freely shared what might be sensitive information. They shared significantly more information about their specific interests, needs, and priorities—which is exactly the kind of information necessary to expand joint gain. Moreover, they were significantly less likely to just beat around the bush. As a result, negotiation pairs in the “integrative reputation” condition achieved economically better outcomes than negotiators in the “control” condition. Also, both negotiators in the integrative reputation condition did equally well economically, suggesting that an integrative reputation of one negotiator was all that was necessary to set the negotiation on an integrative course. Finally, in this study they tested negotiators’ satisfaction with the process and willingness to negotiate in the future, and found that both sides in the “integrative condition” were more satisfied and more willing to negotiate in the future than the negotiators in the control condition.

These results, combined, suggest that in multi-issue business negotiation, having an integrative reputation can help negotiators achieve deals with higher economic value than if they had a reputation as a distributive bargainer. This economic benefit is realized because the average party facing a negotiator with an integrative reputation does not appear to exploit the other’s benevolence, but
rather tries to use this cooperativeness to fashion high quality deals. In other words, our randomly distributed negotiators who faced a counterpart labeled as ‘integrative’ did not try to exploit this integrative counterpart, but on the contrary were influenced by this integrative reputation to share sensitive information. (Of course, a negotiator with a well-earned ‘distributive’ reputation might act differently). Moreover, the negotiators facing the counterparts with the integrative reputation who opened up and shared sensitive information about interests and priorities were not exploited by the counterpart (for recall these “integrative” reputations were fictional and randomly assigned). Rather, this opening up and sharing of information appears to have been treated as a sign of good will, to be repaid in kind. Thus both parties in the “integrative condition” achieved high economic outcomes.

Although these results are compelling, they alone are not definitive in suggesting that integrative reputations are more beneficial to a negotiator than distributive reputations. Does this same pattern extend to non-buyer/seller exchanges? Does this same pattern extend to negotiations outside of a controlled laboratory situation? That is, what is the generalizability of these results?

Results from Surveys of Lawyers About the Real World

In a well-known article, Robert Gilson and Robert Mnookin hypothesize a theory of reputation markets for lawyers. This theory of reputation markets has several components. First, like Axelrod, the theory uses the game theoretic construct of the prisoner’s dilemma where lawyers can either choose to cooperate or defect—the same behavioral choice outlined earlier. Gilson and Mnookin hypothesized that reputation markets could alleviate the prisoner’s dilemma in litigation by signaling a cooperative or competitive intent to the other side. If a lawyer had a cooperative reputation and the other side knew that, they would be more likely to work together (and save their respective clients time and money). If, however, the lawyer had a distributive reputation and the other side knew that, the other side would respond in kind (by, for example, dragging out discovery). What reputation markets hypothesized, we have already seen proven in the lab studies cited above. So, how do lawyers’ reputations actually get measured in reality?

One way of measuring reputation is to see what that reputation is worth in the real world. In the real world, we would see that “worth” through either what clients would pay for that reputation, or how attorneys would assess that reputation. What is the view of attorneys toward each other given that these other attorneys create and measure that reputation? If lawyers value an integrative approach in their colleagues, we would expect them to perceive that as a more effective negotiation approach. Similarly, if lawyers do not find a distributive approach valuable, lawyers would tend to describe this approach as relatively ineffective in negotiations. As we explained earlier, reputations are created over time and through interactions. Therefore, to measure lawyers’ reputations, we need to ask lawyers about other lawyers’ behaviors.

In a negotiation study conducted in Chicago and Milwaukee, over 700 lawyers (out of 2,500) sent back a mailed questionnaire that asked lawyers to rate their counterpart attorneys using 89 adjectives, 60 negotiation techniques, and 14 goals. The attorneys also rated their counterparts for effectiveness. The studied attorneys were grouped in two, three, and four styles based on statistical analysis. As we would expect given the lab studies, attorneys do value an integrative reputation as measured by its perceived effectiveness. For example (in the four-cluster analysis where attorneys were divided into “true problem-solving,” “cautious problem-solving,” “ethical adversarial” and “unethical adversarial”), 72% of those attorneys described as true problem-solvers were perceived as effective by their peers (and
only 1% of these attorneys were seen as ineffective). In contrast, only 3% of unethical adversarial attorneys were perceived as effective, while 75% of unethical adversarial attorneys were perceived as ineffective. (Being ethical adversarial only helped somewhat—only 16% were perceived as effective, with 40% perceived as ineffective).

The theory of reputation markets also hypothesizes that in smaller markets it will be easier to create and maintain an integrative reputation. So, extrapolating from the theory, we would expect to see a “reward” for integrative behavior in smaller markets, and “punishment” for distributive behavior. Similarly, in the larger markets where an integrative reputation is harder to create and maintain, we would expect to see both smaller rewards for integrative behavior and smaller punishments for distributive behavior. Using this study of attorneys, we can see whether there was a difference by geography (small city versus big city) and by practice area. Both the four-cluster analysis and two-cluster analysis (dividing lawyers only into “problem-solving” and “adversarial”) showed statistically significant differences by city and practice area.

Not surprisingly, attorneys were seen as more effective when they displayed problem-solving behaviors in a smaller market. For example, in Milwaukee, problem-solving attorneys (in the two cluster analysis) were found to be 66% effective, whereas in Chicago, 59% of problem-solving attorneys were considered effective. Additionally, in the four-cluster analysis, 74.2% of attorneys categorized as true problem-solvers were rated as effective in Milwaukee compared to 70% of true problem-solvers in Chicago. And the reverse is true as well—lawyers who are adversarial are seen as less effective in the smaller market of Milwaukee. For example, there were no unethical adversarial attorneys considered effective in Milwaukee compared to 6.1% of unethical adversarial attorneys in Chicago who were considered effective by their counterparts. Finally, as expected, there is less punishment for being adversarial in the bigger market of Chicago. In the two-cluster analysis, adversarial attorneys were considered more effective in Chicago than in Milwaukee: 41% of Chicago adversarial attorneys were reported to be effective versus 34% of adversarial attorneys in Milwaukee.

We would also expect that smaller practice areas would lead to a greater ability to create and benefit from an integrative reputation. When examining the data by practice area, the highest percentage of true problem-solvers amongst the various practice areas was, perhaps surprisingly, in criminal law, with 49.2% of attorneys considered true problem-solvers. While the subject matter of the negotiations in this group (plea bargaining) does not lead immediately to the conclusion that integrative behavior is effective, in fact the repeat-play in criminal law is probably higher than any other practice area (remembering that we are speaking of the lawyers, not their clients). Other studies have found that the impact of repeated interactions among lawyers does lead to higher settlement rates.

The exception to this hypothesis, however, is found in the family law area. Gilson and Mnookin hypothesized that an integrative reputation would be worthwhile in family practice. And clearly one would expect both from the extensive family law literature and from the subject matter that cooperation would be rewarded. However, the family law practice area had only 37.7% true problem-solving attorneys, placing family law fifth amongst the seven practice areas of law. Moreover, family law had the highest percentage of attorneys considered unethical adversarial—14.8% of attorneys. Further work needs to be done to explain these findings, but one could hypothesize that some percentage of clients in the family law area pay for, expect and reward adversarial behavior even more than in other practice areas. This impact of the client on the creation and maintenance of a reputation is another area for further research.
Results From the Field
Thus far we’ve seen that in both a business domain and a legal domain, in both the lab and with practicing attorneys, a reputation for being cooperative appears superior to a reputation for being tough or distributive. But does this extend even further, to crisis negotiations? Does this extend to barricade situations where a criminal or psychopath has isolated himself, issuing threats and demands and perhaps even holding hostages? In these cases, might force or the threat of force be more appropriate? The answer is yes, the threat of force (on the part of law-enforcement) is important to motivate a dialogue between the perpetrator and the crisis negotiator. But within the negotiation, itself, having a reputation for being cooperative, trustworthy, and honest is critical for successful resolution. This matters in more than just the selected case area of hostage negotiations. [Taylor & Donohue, Hostage Negotiation]

Consider the following true (though names are fictitious) story in which several different negotiators, with different reputations, were involved; one proved unsuccessful at achieving resolution and the other proved to be an overwhelming success, with the end result being that a life was saved.

Billy (not his real name) was a 48-year-old male who came to the attention of the police after he called his estranged girlfriend and told her that he was going to kill himself. The girlfriend knew that he was depressed over their recent breakup and was refusing to accept that the relationship was over; she also knew that Billy had a gun. She quickly called the police, which summoned several different units from within the department, including the Emergency Service Unit (ESU), the NYPD’s tactical team, and the Hostage Negotiation Team (HNT). The former girlfriend informed the police that Billy had been diagnosed with bipolar disorder. [Jeglic & Jeglic, Disordered People] When the negotiators first established contact with him, they quickly learned that he was in his manic stage. He remained that way for the next 50 hours.

This marathon negotiation proved to be difficult and complex, utilizing 17 separate hostage negotiators, and even recycling negotiators back in, before it was finally concluded. In a situation such as this, when an individual is holding himself hostage with a gun, negotiation is the only viable solution. Certainly the police do not want to make a tactical assault and put themselves in a position of having to shoot the individual to keep him from shooting himself.

Billy quickly revealed himself as being extremely intelligent, particularly when it came to holding his own with the negotiators, and at times he even appeared to be negotiating the negotiators. At one point, he cleverly “set up” one of the negotiators by asking if he had a family. The negotiator responded that he had a wife and two children. Billy then asked the negotiator if he looked forward to spending a long life together with them? Again the negotiator responded yes. Billy then retorted, “Well that’s wonderful and I respect you for that. So why then, do you assume that I want those same things and why do you not respect my wishes to want to die?” The negotiator had no immediate response.

About 20 hours into the negotiation, a new negotiator, “Paul,” was put on the phone. This was a calculated plan, as Paul had a reputation for being able to push negotiations to the limit, in many cases instilling just enough pressure to convince hostage-takers into surrendering. Paul was at times adversarial and confrontational in his approach. In the four hours that Paul spoke, his tactics did not prove effective for this individual. Billy indicated to the next negotiator that he did not like Paul’s brash approach, and that Paul was not to speak with him again or he would immediately shoot himself.
It was ultimately another negotiator, named “Rachael,” who finally convinced Billy to come out. Rachael had spoken to Billy early on in the negotiations, and Billy recalled during their final negotiation that she had been very compassionate and demonstrated genuine concern for his well-being. Rachael effectively developed a positive and encouraging rapport with Billy, to the point where he was able to trust her enough to finally come out.

What is particularly striking about this story is that a cooperative reputation proved critical even in a situation where there was little chance of any repeat-play. That is, in most business and legal negotiations, negotiators routinely interact with each other over time. Contracts are updated, union-management terms are renegotiated, and attorneys see each other again. As most game theorists would explain, in a repeat-play, mixed-motive game (such as a multi-round prisoners’ dilemma), parties are made best off when they can cooperate and trust that the other party will cooperate as well. Hence, as mentioned in the first section, repeat-play encourages an attentiveness to how one is perceived by the other side (i.e., an attentiveness to one’s reputation), and an awareness that one wants to be perceived as cooperative rather than exploitative.

What the NYPD Hostage Negotiation Training teaches, however, is each discrete negotiation can be seen as a repeat-play situation. A negotiator’s behavior at the beginning of the negotiation has critical implications for a hostage taker’s responses to the negotiator at later stages of the negotiation. Indeed, a rule of thumb stipulates that the first 15-45 minutes (of what might be a protracted, multi-day negotiation) are the most critical. In this early window a negotiator must try to begin establishing his or her reputation for trustworthiness, problem-solving, compassion, and cooperation (though of course each situation is different and often the first 45 minutes are just allowing the hostage taker to vent). People are inclined to manage psychological distress by believing in the credibility of those upon whom they must depend to get them through their misfortune. If a crisis negotiator demonstrates a strong and sincere desire to resolve the crisis in a compassionate and cooperative way, then the chances of successful resolution are enhanced.

The negotiator establishes this reputation slowly and by creating “small wins.” One common technique is to first ask the hostage taker if he wants the negotiator to tell the truth or not. This does several things. First, it starts a reciprocity process, because when the hostage taker says “yes” and the negotiator agrees, then the negotiator has made a concession of sorts, establishing that the negotiator is willing to work with the hostage taker or problem-solve. Second, when the hostage taker says “yes” the negotiator can then agree and has started to build his or her reputation for honesty. Third, when the hostage taker says “yes” the negotiator can then reply that he will be honest, but the hostage taker must promise to not do any harm if he has a negative reaction to what the negotiator might say. This starts to establish the negotiator’s reputation for compassion and problem-solving—that the negotiator wants a good outcome for everyone. It also begins establishing control for the negotiator. Hostage negotiators must convey a cooperative spirit while simultaneously establishing the authority to eventually remove control from the hostage taker. Another common question to ask in this critical early stage is, “How did we get here today and how can we get out of this?” (Sometimes these are asked as separate questions, but always using the negotiator’s own phrasing, which may be far less direct than our summary version of these all-important questions). This establishes the negotiator as compassionate. Also, by eliciting ideas from the hostage taker for how to get out of this situation, these questions signal that the negotiator wants to work together with the hostage taker to find a mutually-beneficial solution, reinforcing a reputation for cooperation and problem-solving. Of course, this question also invites
the hostage taker to begin telling his story, a critical component of the process we discuss below.

Demands are elicited—“what do you need,” “how can we get out of this situation”—as a way of getting at the hostage taker’s underlying interests. This again establishes the negotiator as cooperative, a problem-solver. Of course, the negotiator has to be clever in how he or she responds to certain demands. Oftentimes, the negotiator will paraphrase demands, successively lowering their actual content. For example, if a hostage taker asks for $1 million and a jet to Bermuda, the negotiator might paraphrase by replying, “ok, so you want some money and to get out of this safely.” In this way, the negotiator is continuing to build a cooperative reputation while simultaneously lowering the expectations or reference points of the hostage taker. The goal is essentially to lower the demands of the hostage taker to a level where the negotiator can agree and resolution can occur.

Another element to this critical opening dialogue is the expression of emotion. Oftentimes the hostage taker will want to vent about the negative events that have brought him to this place. The negotiator can elicit these emotions in a reflective way, saying for example, “You seem angry (sad/upset), can you tell me why?” Reflecting emotions often gets the hostage taker to agree (“You’re damn right I’m angry”) which starts to build reciprocity as well as the reputation for compassion and cooperation. [Shapiro, Emotion] Sometimes the negotiator will then draw upon his or her own life experiences of these angry (sad/upset) emotions to again establish the reputation of compassion and cooperation. This is one reason why selection criteria for crisis negotiators are so demanding. Candidates, for example, typically have at least 12 years NYPD experience, ensuring they have the maturity and life experience to relate to such emotions as love, hurt, success, and perhaps, most importantly, failure. Of course, eliciting these emotions not only builds reciprocity and a favorable reputation but also has the added benefit of allowing the hostage taker to vent his emotions, which often dissipates them, often allowing a more rational and realistic conversation to emerge.

Although crisis negotiations are very personal and each negotiator would have his or her own unique dialogue, commonalities of approach do exist. One fundamental agreement is that negotiators must pay attention to their reputation, even within this one-shot context. Moreover, a reputation for credibility, trustworthiness, cooperation, and compassion (i.e., an integrative reputation) is what a crisis negotiator is trying to build.

Conclusion
Reputation is too important to be left to chance. Negotiators need to understand the impact of their reputation, and must work to maintain that reputation throughout the negotiation. We have argued that an integrative reputation leads to better rapport and information sharing, leading to more creative and more satisfying outcomes. Furthermore, this integrative behavior is perceived as more effective by one’s negotiation counterpart. Finally, even under conditions in which repeated interactions are highly unlikely, the ability to create a trustworthy reputation has value even within that single negotiation interaction. Creating and maintaining an integrative reputation can take time and effort, but as Socrates suggests, these are well spent resources for a “jewel” of a reputation, and a reputation once built is cheaper to maintain than to re-gain.
Indeed, it has been noted that reputations only exist in a world of uncertainty—if actions or outcomes are certain, then reputations become irrelevant.

Some writers would argue that there are more than two choices of style or that a combination of styles would be most appropriate. For our purposes and for clarity, however, we limit the discussion to these two extremes.


Thompson, supra note 5.


See David Lax & James Sebenius, *The Manager as Negotiator* (1986) for further discussion of how contingency contracts that trade-off differential projections of the future create joint (integrative) value in a negotiation.
24 Tinsley, *Tough Guys*, supra note 21. “Significantly” here means in the statistical sense, in that ANOVA showed these negotiators were significantly more likely than corresponding negotiators in the control group to act as described.


26 Id.

27 Schneider, supra note 12.

28 Id.

29 Id.


31 In fact, most law-enforcement separates the use of force, which is supplied independently by a tactical unit, from the negotiation, which is an independent unit or team.

32 AXELROD, supra note 1.

33 HT’s always say “yes.” “As crazy as hostage takers can be (and they can be very, very crazy), I’ve never had any of them ever say ‘yes, please lie to me’” Hugh McGowan, in Jack Cambria et al., *Negotiation Under Extreme Pressure: The “Mouth Marines” and the Hostage Takers*, 18 *Negotiation Journal* 331 (2002).