Crisis Communications: Same Goal, Different Lens:

How Lawyers and PR Pros can work effectively together

Meghan L. Riley| Division Chief| City of Austin Law Department
Jenny LaCoste-Caputo | Deputy Director | City of Austin Communications & Public Information

When controversy hits, an organization needs **legal advice** *and* **public relations** advice

- Lawyer's Lens: mitigate liability or legal risk
- Comm's Goal: Maintain reputation/shape the message in a positive way
- Tension occurs when the **safe** legal strategy is often a **bad** PR strategy (no comment.)
- Conflict is unavoidable but can and should be managed by bringing both to the table.

Coordination starts with each party respecting the other's strengths

- Public Relations/Communications Professionals are storytellers. People understand stories (not legal positions.) Experience with media and how narratives are shaped, can lead to costly reputational damage.

- Facts matter to lawyers: lawyers possess deep understanding of the law, are trained to be sensitive to liability and risk and how words can come back to haunt an organization in a legal challenge.

Responding to a Crisis:

- Initiate your City's crisis infrastructure: operations, legal, communications
  --media response policy
  --governance questions

- Define the crisis—what is the immediate problem
- Assess what legal, investigatory, regulatory and reputational risks are involved
- Identify who gathers the facts (internal versus external)
- Prepare the Communications Plan
  - Who will say it
  - What is said short term and long term

Legal Issues in Crisis Communication Response

Is the communications plan considered attorney work product/attorney client privilege?

- *In re Premera Blue Cross Customer Data Security Breach Litigation,* 296 F.Supp.3d 1230 D. Ct. Oregon 2017.

But See

- *Reporters Comm. For Freedom of the Press v. United States Customs and Border Patrol*, 567 F.Supp.3d 97 D. Ct. Dist. of Columbia 2021.

Legal Issues in Crisis Communication Response

What Rules of Professional Responsibility apply?

- 1.1 Competence
  --Can I handle this myself?
  --How do rule comments re emergency fit in?
- 1.13 Organization as a Client
- 1.2 Scope of Representation
- 1.3 Diligence
- 1.4 Communication
- 3.6 Trial Publicity

Lawyer's Role in Early Action

--Identify short-term and long-term steps for mitigation

Does conduct or operation issue need to be stopped

If the crisis is employment-based…advise on retaliation

Review Records Retention and preservation obligations

--Monitor social media (with your communications team)

What Should We Say?

--Be truthful

*Know the facts before City speaks

*Timely response helps reduce outcry

--Accept responsibility and have a forward-thinking message (we are fixing this)

--difference between responsibility, liability and the role of an apology

--Do not say “we are taking the matter seriously”

--Do not let fears of liability overwhelm your humanity

“No Comment”

What you say versus what the public hears:

“No comment equals guilty as charged.”

“We don’t comment on pending litigation equals the allegations are true.”

Liability is usually not the only consideration

trust, reputational harm, public protection

Lawsuits are a long term consideration—crisis communications include the short term

Public forms long term impressions about the City in crisis

Litigation is not a reason to say “no comment”

Who is the Spokesperson

We take charge but attorneys should not be the default

Crisis team should have a designated spokesperson

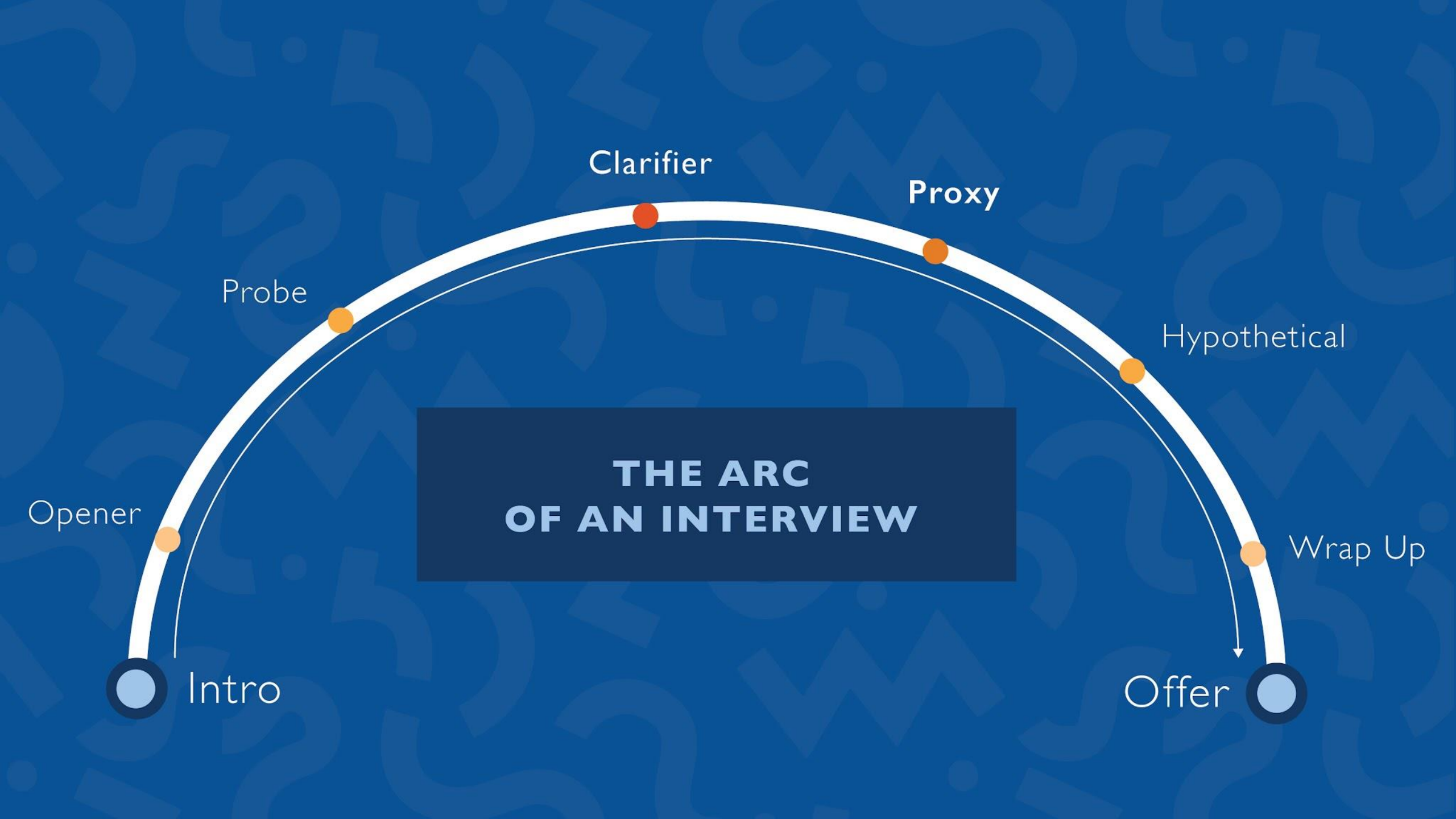
--Can change each time

Media training pre-crisis is essential

--practice and retrain

Managing the Media

- The media is NOT our enemy (believe it or not!)
- Vital to our democracy.
- Valuable partner in informing the community.
- Can provide credibility.
- Relationships are key.
- Prepare for interviews.


Clarifier
Proxy
Probe
Hypothetical
THE ARC
OF AN INTERVIEW
Opener
Wrap Up
Intro
Offer

The Opener

Often a softball questions that gives you an open field to say the most important thing you want the audience to know.

Determine your “head and tail message” which should be:

- Positive in tone
- Expressive in nature
- Highly quotable

Useful Phrases:

- *“First and foremost…”*
- *“The important thing is….”*
- *“What is key to understand is….”*
- *“The bottom line is….”*
- *“At the end of the day….”*

Study: 10 percent of UT's female undergrads say they are rape victims

Andrea Zelinski and Nicole Cobler March 24, 2017

Click to copy

RELATED TOPICS

Sexual misconduct

Joe Straus

AUSTIN — One in 10 undergraduate women at the University of Texas' academic institutions report they have been raped since enrolling in college, according to a study released Friday that lawmakers hope will prompt a crackdown on campus violence.

Of 28,270 students surveyed by the University of Texas System, 72 percent of sexual assault victims at UT's academic institutions reported that they did not tell anyone they had been raped prior to taking the survey.

ADVERTISEMENT
Ad by CRITE
Report this a
Ad choices

"We are not going to run from this. We are not going to hide from this. We are going to take this head on," said UT Chancellor William McRaven on Friday in a conference call to reporters.

The Probe

Designed to put you on the spot with an exact answer.

“Shouldn’t Austin Energy have been prepared for the storm?”

Bridge or use a fact & figure message.

“We understand this is a frustrating situation, but…”
“Actually, Austin Energy has more than 1,000 line workers from multiple states working to restore power …..”

The Clarifier:

"So, what you're saying is…"

"So what you're saying is the school district isn't doing enough to protect students and staff…"

Don't repeat leading statements or misinformation.

Clarify and bridge:

"Actually, our campus is extremely safe. We have extensive security protocols and train our staff on how to respond in just such an emergency."

The Proxy:

“A lot of residents have expressed concern…”

- Focus on your message.
- Good opportunity for an anecdote/story

The Hypothetical:

“What if this happens again?” or “What if someone dies next time?”

Don’t take the bait!

“What we are focused on right now….”

The Wrap Up and the Offer

Wrap Up: “Looking at the bigger picture…”

- Great opportunity to flag and emphasize your “head and tail” message.

Offer: “Anything I didn’t ask?”

- Don’t waste the opportunity!

Why do the interview?

Even a negative story can boost or reinforce your credibility.

What makes a great soundbite?

A summation: A bold statement that the viewer is going to remember.
- 10-15 seconds

Determine your headline message.
- What is the impact to the audience?

Say it at the beginning and the end (heads and tails).
- It reinforces it in the reporter's mind that this is the key message.

Questions

AUSTINTEXAS.GOV

