

A Lawyer, C.I.A. Analyst and a Crisis Management Specialist Walk Into a Bar ...

BY BRUCE HENNES

Before James Comey headed up the F.B.I., he served as general counsel of Lockheed Martin Corporation. While at Lockheed, he spoke at the National Security Agency about how studying law is similar to the education intelligence analysts receive. “You read a case and decipher ... relevant facts, the [outcome] of the case ... you are drilled on your reasoning, challenged by other interpretations ... clear writing matters...facts matter.” He went on to praise legal training “because it is an extraordinarily valuable tool in the world of intelligence.”

He elaborated on what he called a “uniquely lawyerly ability ... to transport ourselves to another time and place. The ability to present facts to an imaginary future fact-finder, in an environment very different from the one in which we face current crisis and decision... we know that our actions, and those of the

agencies we support, will be held up in a quiet, dignified, well-lit room, where they can be viewed with the perfect, and brutally unfair, vision of hindsight.”

Comey talked about how lawyers must know how to say both “yes” and “no,” even when “no” must be spoken into a storm of crisis, with loud voices all around, with lives hanging in the balance ... and often, ‘no’ must be spoken in competition with the voices of other lawyers who do not have the courage to echo it.”

While I find Mr. Comey’s short remarks to be thoughtful and right on-target, I do take exception to his assertion that presenting facts to an imaginary future fact-finder is “uniquely lawyerly.” I would argue that same skill set is present in the men and women who practice the specialized art and craft of crisis management and crisis communications. They, too, must be able to quickly perform a situation analysis (often within the fog of information overload),

look for connections and quickly play-out a variety of scenarios, also knowing they will be second-guessed if things go awry. And just as important as lawyers giving red light-green light counsel, so must crisis management counsel be able to speak truth to power.

I’m certainly not comparing the life or death decisions that must be made in an instant when political or military commanders authorize a drone strike with United’s recent decision to “re-accommodate” Dr. Dao and forcibly remove him from the plane, or with the staff meeting groupthink that led to Volkswagen and Wells Fargo’s lies to their customers.

Bad things do happen to good people, to good companies, agencies, nonprofits, schools and hospitals. But as Greek philosopher Epictetus said, “It’s not what happens to you, but how you react to it that matters.” And when those things do happen, it’s important to have both lawyers and seasoned crisis managers in the room, each with the ability to say “yes” or “no” with conviction, backed-up with the kind of experience that can’t be found in a book.

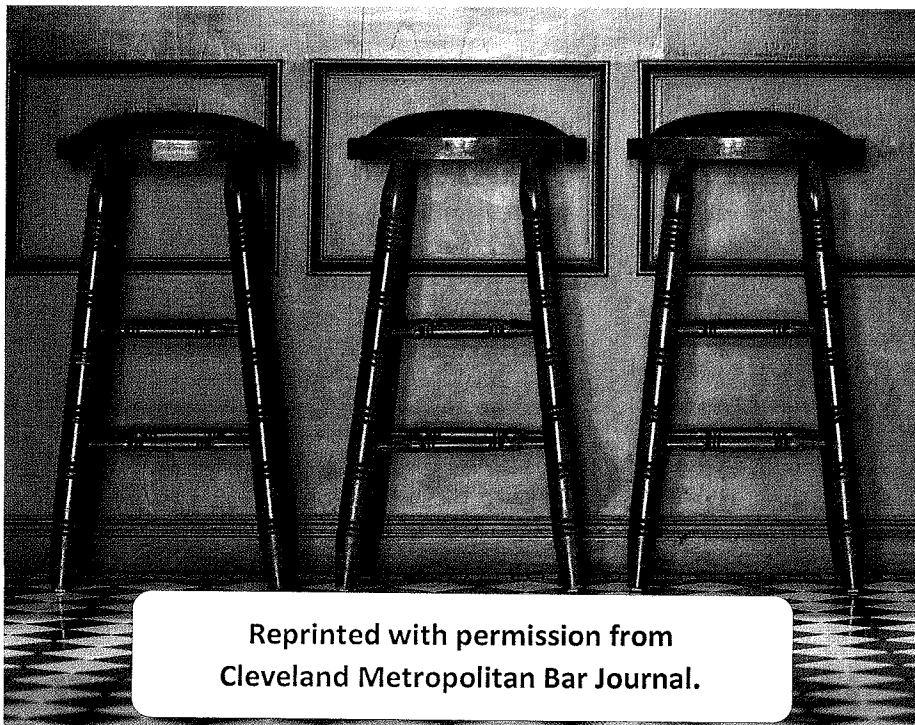
In his talk at the National Security Agency, James Comey did say that “it takes far more than a sharp legal mind to say “no” when it matters most. It takes moral character. It takes an ability to see the future. It takes an appreciation of the damage that will flow from an unjustified “yes” (and) when it can be, to “no” when it must be.”

I couldn’t agree more.



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