

The Partner in Crisis: The Role of Counseling Psychology

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I have spoken many times to bar associations and law societies about the relationship between psychology and the practice of law. Members of my audiences have often asked, “Just what exactly do you do?”

A large part of my work deals with the partner in crisis. The stakes can be very high, both for the partner and for the firm. In order to help you understand the perspective I bring to this topic, I would first like to outline three ways that a counseling psychologist, like me, addresses the problems of the partner in crisis.

Usually a law firm will use a mixture of these services - counseling, coaching and professional facilitation -- to deal with a partner or partners in crisis. Before exploring each of these three services in greater detail, let's consider two premises that apply to all of my work. Then we can consider three rules that must be observed if the work is to be successful.

What's going on in the workplace?

Law firms hire me to work with individual partners or groups of partners who are having performance problems. The behaviors of these partners usually have had a negative impact on the firm in some way. Disappointing business performance, inappropriate workplace behavior, and deep conflicts with colleagues are some of the most frequent examples. Often, by the time I am asked to help, important matters have already become urgent.

I focus on workplace behaviors, not “attitudes” or “personalities.” The goals must be clear: to eliminate abusive or counterproductive behaviors that are affecting business performance.

It's not therapy!

Sometimes, I need to remind clients that what I do is not therapy. Therapy is a much longer term commitment, which is not focused on the business context as is my work.

Mental illness and substance abuse are frequently involved in crisis behavior in the workplace. The workplace is no place to solve them, however. A partner's condition may need to be stabilized through the support of external resources, such as medication, personal therapy, or even hospitalization, before we can even begin to deal effectively with the work-related concerns.

I may also refer clients to a personal therapist, while we are dealing with the workplace issues, who can provide them with added support they need outside the office. Sometimes, at my client's request, I have met with the partner's personal therapist so that the three of us can take a more integrated approach to the workplace problems.

Workplace counseling

Workplace counseling is a complex process. It is not about getting partners to change their personalities. Personalities are not inherently good or bad. It is the choices that we make in our actions that most often precipitate a crisis.

Counseling motivates people to learn and to change their behaviors. Through various forms of support, guidance and feedback I help my clients to:

- Increase their self-awareness.

Through this awareness they learn to recognize how they react emotionally to certain workplace triggers and how the choices they make about their behavior impact others around them.

- Clarify where they need to improve.

Psychology is not mind control or trickery. A basic assumption of my practice is that everyone has the right and responsibility to make choices about what, if any, behaviors they want to change.

- Commit to the achievement of certain goals in a specified period of time.

This is a developmental process, which usually occurs over a period of three to six months.

- Develop new models for thinking about and experiencing relationships with others.

In some cases, the partners in crisis may not be aware of how feelings are formed in response to thoughts, and that behavior they consider to be part of their personalities can actually be altered by the choices that they make.

- Develop specific skills to change or improve their behavior.

Even when they understand the need to change their behavior, some partners may not know how to change.

- Make informed choices about their careers.

Partners in crisis sometimes are not aware that their careers are truly in jeopardy. They might not understand the consequences of continuing to behave as before, nor the potential benefits of changing.

Workplace counseling requires motivation and readiness on the part of both the partner and the firm's management. Both parties must be ready to deal with and resolve difficult and sensitive issues. They need to be honest about their motives for participating in the performance improvement process.

Counseling is not for amateurs. Inexpert attempts, by the firm or an inexperienced external specialist, can cause harm to the partner in crisis and others who are involved in the situation. If the external specialist does not know and understand the personalities of lawyers and law firm culture, he or she can make errors in judgment that actually exacerbate the crisis.

Counseling is not coercion or trickery. A law firm that plays games, intentionally or not, when people are vulnerable will find that its reputation on the street is hard to repair. The word will get out. Other lawyers and even prospective clients will not want to place their futures in the hands of a law firm that treats its own people unfairly.

Counseling requires a level of trust between the firm and the partners involved. All parties must be willing to respect confidentiality agreements. They must also be willing to follow through on commitments they make to each other at the beginning of the process.

Counseling is not the way to “deliver a message.” It is a developmental process. The partner needs to know the firm’s intentions. Has the firm or managing partner already made a decision to terminate a partner? Is the firm’s management unwilling to support the partner in rehabilitating his or her reputation in the firm? Is management merely looking for a comfortable way to “manage the partner out?” If so, the partner in crisis has a right to know these facts in order to make an informed decision about investing any time and effort in developmental work inside the firm.

If a bad situation has gone on too long, counseling may no longer be an option. When the relationship is truly over, for one or both parties, often the best thing to do is to confront that reality, work through the options, and plan to part ways.

Counseling requires joint contribution. The counseling process often identifies problems within the firm that have contributed to a crisis of trust or underperformance. When asking individual partners to change, the firm’s management needs to be prepared to change as well.

For example, the lack of a simple partnership agreement can lead to misunderstandings and stand-offs between partners. Unresolved tension about compensation can erupt over seemingly smaller matters of sharing financial information and making simple business decisions. The firm’s failure to provide timely and candid feedback about a partner’s failure to meet expectations is another common factor leading to a partner crisis.

Counseling can include work with one partner or, sometimes, with a group. For example, I have provided counseling to partners who have been asked to step out of leadership positions because of inappropriate behavior with associates and staff. On many occasions I have worked with a small group of partners whose day-to-day working relationships have deteriorated to the point that they are no longer able to make the business decisions necessary to sustain a viable partnership.

Counseling and confidentiality

I never assume confidentiality. Instead, we establish clear parameters of confidentiality in advance, both with the law firm and the partners involved in the counseling process. When I am working with an individual partner who has requested complete confidentiality in our relationship, I sometimes bring in one of my colleagues, typically a lawyer, who serves as a “best friend” to the management of the firm. This insulates my role as a professional helper

and still allows the rest of the firm access to expert advice they may need to respond constructively to the evolving situation.

For example, I may be working with a retiring partner who is angry about being marginalized by other partners in the firm. While I'm working with the partner on personal issues of loss, transition to retirement, and his career options, my colleague may help the partners develop formal options to transition older partners more effectively. This creates a win-win. The firm can present agreed options to the retiring partner, by which he or she can continue to contribute valuable influence and expertise during the transition to retirement, while avoiding any significant negative impact on the firm's profitability.

Coaching

The second way that I frequently help a partner in crisis is through coaching.

My approach to coaching is generally more objective than counseling. Like counseling, it helps partners solve real-life problems and make decisions. It focuses on promoting deeper thinking. Unlike counseling, coaching does not probe the complexities of emotions and human behavior.

In coaching, my role is more that of a business adviser than a counselor. We start by sharing information. I ask questions of the client, the client asks questions of me, and then I offer advice or present options for solving the problems. Sometimes we work together through a highly tailored solution, which takes into account the client's tolerance for risk, legal and economic constraints, cultural dynamics, and internal resources.

Coaching can be a useful part of a crisis response. For example, coaching might involve helping a group of partners with the selection and integration of a lateral hire into a key practice area. It could help a managing partner to prepare for a difficult discussion at a partner's meeting about the failure of the firm to meet fee targets. These situations, if handled well, can help improve the firm's capacity to succeed. They can also help a firm build experience and skill in dealing with difficult problems. If handled poorly, however, the ripple effect can haunt the self-confidence and profitability of the partners for years.

Facilitation

The third service that I provide is facilitation.

A professional facilitator helps the partners to prepare an agenda and then guides them through the execution of an agenda, ensuring that all important items are covered. I make sure that each party to the discussion has the opportunity to participate in a satisfying and useful manner.

Third-party facilitation of difficult or sensitive issues provides several advantages. First, it gives all parties the opportunity to participate fully without the added responsibility of guiding the meeting and keeping it on track. Also, it is easier for a third party to focus the discussion when emotions are high and the topic is contentious. Perhaps most importantly, the professional facilitator has expertise and experience with a wide range of tools to help the participants achieve the agreed objectives of a structured discussion or meeting agenda.

Sometimes a crisis can be resolved by a single action. Maybe a partner needs to take time off work for medical treatment or rehabilitation or even just a holiday to relax. That is not usually the case, however. More often a law firm will use a mixture of these three services -

counseling, coaching and professional facilitation by a third party - to deal with a partner or partners in crisis.

Three basic rules for success

Regardless of the methods used, there are three basic rules that must be observed to produce a successful result for the partner in crisis and for the firm.

Rule 1: Confront the situation honestly.

Ignoring the problem never solves it. If the partner has not already asked for help, the right person needs to confront the individual with the “truth” about what specifically is not working. This should be planned carefully and delivered with clarity and compassion, not impatience and frustration.

It helps to remember that you are not confronting the person but the behaviors. You are not saying, “I am right and you are wrong.” Instead, you are saying that the behavior has jeopardized the partner’s credibility, work effectiveness, and maybe even his job.

Four things, above all, must be communicated clearly and unambiguously:

- What is acceptable and unacceptable behavior in the view of the partnership?
- What behavior by the partner must change and by when?
- What, specifically, is the firm going to do to help?
- What are the consequences of changing and not changing the partner’s behavior?

This last point is especially critical to a successful result. Without it, the firm may think that they are delivering the message, but the partner may not hear it.

A successful outcome is not always what we think of as a happy result. For example, a successful outcome does not necessarily mean that the partner will remain in the current position or even as a member of the firm. “Success” in this context is better defined as ensuring that both the partner and the firm make an informed, rational decision about their future together. Sometimes this means that the partner leaves the firm, but under conditions that minimize damage.

Do what’s fair. Planning and facilitating a partner’s departure should be done in a transparent and supporting way. Far too often, I see just the opposite. Law firms frequently try to force a partner out by withholding work and covertly creating psychological pressure for the partner to leave – in short to set up the partner to fail. The firm may rid itself of someone they perceive as a problem, but the long-term consequences to the firm’s reputation, both internally and externally, are always costly in clear, measurable terms.

Rule 2: Understand what you can’t fix within the firm.

As mentioned before, some partner problems cannot be fixed within the firm.

When addressing a crisis in partner workplace behavior, try to get to the root of the problem. Performance issues can sometimes be caused by personal crises. A partner may be suffering the loss of a loved one or the break up of a marriage. He may be caring for elderly parents or a sick child. She may be experiencing burnout and is mentally and physically exhausted.

Ask for outside help. Partners may feel more comfortable talking with an external professional about what's going on, what they've tried to do, what's not working, and how they feel about all of it. A specialist is more likely to diagnose the situation accurately, to identify what is really going on, to spot specific factors within the law firm that are contributing to the problem, and to propose realistic solutions.

If a personal crisis is having an impact on the partner's ability to function within the law firm, it needs to be handled in a timely and professional manner. Although there may not be much that the firm can do to solve the personal problems that are contributing to detrimental workplace behaviors, the firm must still let the partner know that they are concerned enough about her performance to bring it to her attention and negotiate possible solutions.

This is one way of saying to your partners in crisis, "We see you, we care, we are here to help however we can."

Rule 3: Be prepared to follow through.

Many law firms address these problems only at a very superficial level. They are then disappointed that nothing seems to change. The partner in crisis is often scapegoated for what is essentially management's failure to address sensitive or chronic problems that have persisted in the firm for a long time.

Sometimes the managing partner or practice group head is blamed for the lack of results. Partner frustration with expert internal support and a lack of training and development can also lead to a chronic abdication of partner responsibility to address management and performance issues at all levels in the firm.

Simply telling a partner to change is usually not enough. A partner in crisis may not "hear" what the firm is saying. The partner may intellectually understand, but not emotionally agree with the "message."

The partner may not agree that the behavior is harmful or that he or she needs to change.

A partner in crisis might accept the notion that his or her behavior is a problem, but might not fully understand the impact of his actions on others.

Finally, even when a partner accepts that he or she is in a crisis, he or she might not know how to respond or how to behave differently.

Once a law firm honestly confronts a partner, the firm must be prepared to follow through. Otherwise, why bring up the matter at all?

The firm must also be quite clear about how they will deliver reinforcement, both positive and corrective. For example, is the firm prepared to:

- De-equitize a partner?

- Kick the partner out of the firm?
- Remove the partner from a management board or other leadership role?
- Reduce the partner's contact with clients?

On the brighter side, is the firm also prepared to:

- Recognize the partner's improvements?
- Provide ongoing developmental feedback?
- Reduce the partner's workload, if only temporarily?
- Give time off and enforce vacations?
- Take time to listen?
- Honestly confront issues in the firm that may be contributing to the problem of the partner's workplace behavior?

Trying to change behavior can be stressful, especially if a partner feels that everyone else is watching and there is so much at stake. Feedback, particularly positive feedback, is very important to someone who is working to improve performance. Simple words of appreciation and encouragement from someone the partner respects can reduce stress, build confidence, and provide further motivation to achieve the agreed goals.

Partner crises don't happen overnight. Neither do solutions.

When contacted to deal with a crisis, I am often told "We have been trying to tell him about this problem for years and he just doesn't get it!" If a problem behavior has been going on for years and it has now become a crisis, there is a lot of digging out that must be done.

Feelings of betrayal, disappointment and anger do not dissolve overnight. Threats of legal action and client complaints are not easily forgotten. Nonetheless, in my experience, the culture and ethics of professional practice usually prevail to provide a comfortable, if not caring, environment in which to address the crisis, and if appropriate, to begin the improvement process.

At the end of the day, lawyers are more alike than they are different. The traditional values of the legal profession provide a number of strengths upon which firms can respond to the partner in crisis. Lawyers share a commitment to clients, a deep respect for confidentiality in professional relationships, and a traditional commitment to fairness and integrity. All of these can contribute to a climate that is very conducive to resolving difficult issues if the problems are addressed early enough and if all parties are open to change.



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