

# Principles of Negotiation

# Introduction

A silhouette of a person with their arms raised in a gesture of triumph or celebration, set against a warm, orange-hued background that resembles a sunset or sunrise. The person's head is tilted back, and their arms are spread wide, reaching towards the top corners of the frame.

**9 out of 10 of  
our greatest  
victories have  
been  
negotiations.**



**The First Step to Becoming  
a Better Negotiator Is:**

***Consciousness***

# Style

- We all have a style
- **We must recognize our own style**
- Recognition allows for improvement

A conscious style can then  
become an effective  
strategy

**Traditionally, there were two  
recognized types of negotiating  
styles**

Competitive

Cooperative



# Competitive



- High initial demands
- Limited disclosure
- Few concessions
- False issues/concessions
- Threats & arguments
- Commitment to positions or . . . policy
- Elective disclosure



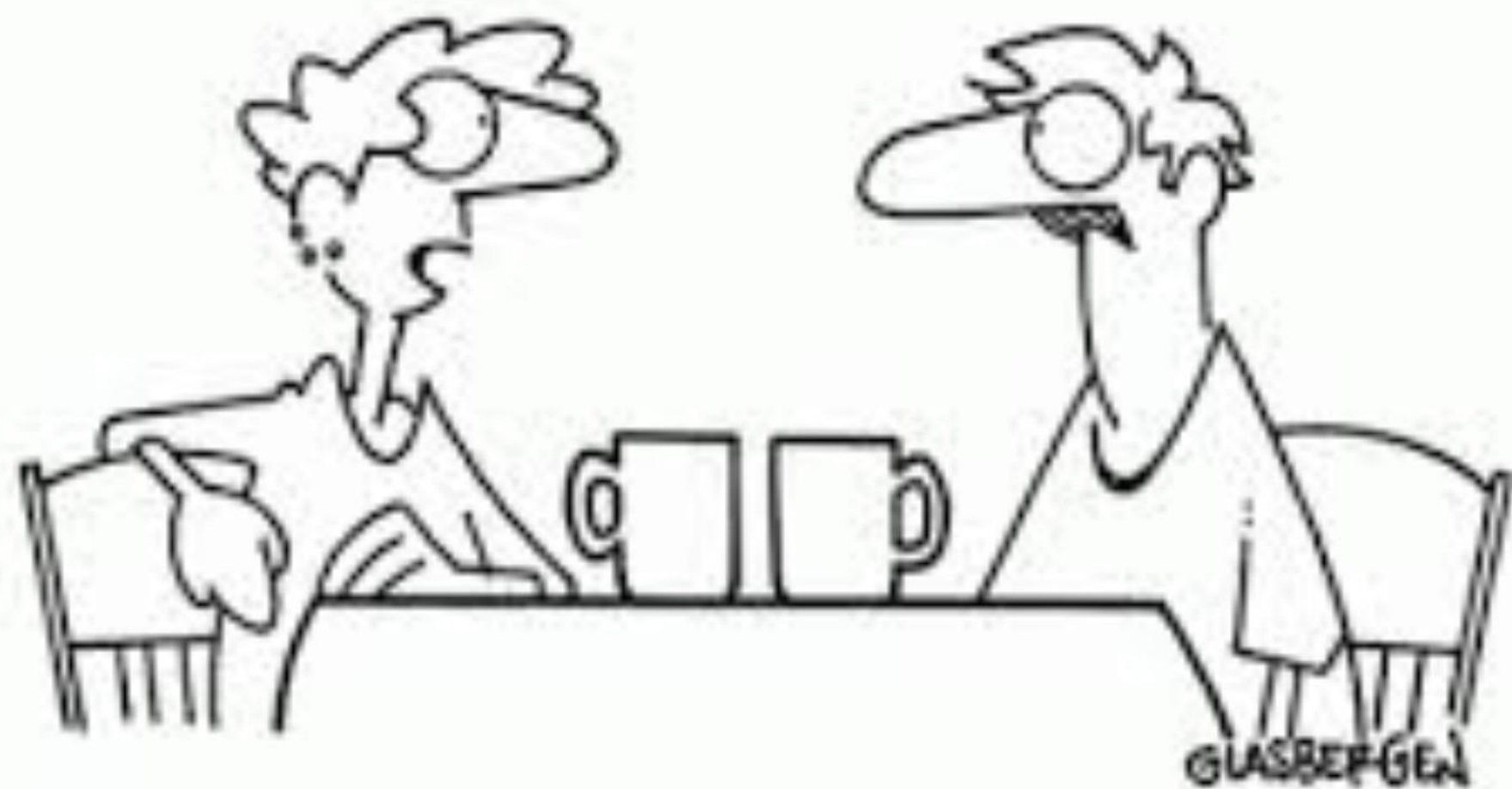
"Then it's agreed. I'll try to get the best of you and you'll try to get the best of me."



# Cooperative

- Foster trust
- Grants concessions
- Positive motivations towards a fair resolution
- Competitive negotiating leads to resentment
- Expect reciprocity





"Let's compromise. You do everything I say  
and I'll say everything you do."

# **Cooperative**

- **Friends**
- **Goal = friends**
- **Make concessions**
- **Soft on people and case**
- **Trust others**
- **Change positions easily**
- **Make offers**
- **Search for answer other will accept**

# **Competitive**

**Adversaries**

**Goal = victory**

**Demand Concessions**

**Hard on both**

**Distrust others**

**Dig in**

**Make threats**

**Search for answer they will accept**

# **Cooperative**

- **Accept 1-sided losses**
- **Insist on agreement**
- **Avoid a contest of will**
- **Disclose bottom line**

# **Competitive**

**Demand 1-sided gains**

**Insist on position**

**Try to win a contest of will**

**Mislead about bottom line**

# Positional Negotiating

A faint background illustration showing two hands, one from the left and one from the right, shaking over a central orange. The hands are simple line drawings, and the orange is a solid orange color with a small green leaf on top. The entire scene is enclosed within a faint, hand-drawn circular border.

**Both of these styles of negotiating focus on the positions taken by the opposing party. Each negotiator tries to gain concessions from the other party in order to move closer to an agreement. Concessions are done at the expense of the other party.**







The National Bestseller



The Second Edition with  
Answers to Ten Questions People Ask

# GETTING TO YES

Negotiating Agreement  
Without Giving In

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**Roger Fisher and William Ury**

and for the Second Edition Bruce Patton  
of the Harvard Negotiation Project

# **Principled Negotiating**

- **Separate people from the problem**
- **Focus on interests not positions**
- **Generate a variety of possibilities**
- **Base results on some objective standard**



# **Cooperative   Competitive   Principled**

Friends

Adversaries

Problem solvers

Goal = friends

Goal = Victory

Goal = wise outcome

Make concessions

Demand concessions

Separate people from problem

Soft on people/case

Hard on both

Soft on people – hard on problem

Trust others

Distrust others

Proceed regardless of trust

Change positions

Dig in easily

Focus on interests

# Cooperative Competitive Principled

Make offers

Make threats

Explore interests

Search for answer  
other will accept

Search for answer  
they will accept

Develop multiple  
options

Accept 1-sided  
losses

Demand 1-sided  
gains

Invent options for  
mutual gain

Insist on agreeing

Insist on position

Insist on objective  
criteria

Yield to pressure

Apply pressure

Reason & yield to  
principle

# Cooperative

# Competitive

# Principled

Avoid a contest  
of wills

Try to win contest  
of will

Reach agreement  
independent of will

Disclose bottom  
line

Mislead about  
bottom line

Avoid having a  
bottom line



# 3 Primary Rules of Negotiation

- Do not argue over positions.
- Build trust.
- Prepare to negotiate.

# **1. Do not argue over positions.**

- Bargaining over positions locks the negotiator to the position.**
- Look for underlying concerns.**
- Don't haggle.**
- Positional arguing is inefficient.**
- Positional arguing engenders ill will.**

## **2. Build trust.**

- **Establish trust through preparation and predictability**
- **Build credibility.**
- **Show genuine concern.**
- **Develop rapport.**

### **3. Prepare to negotiate.**

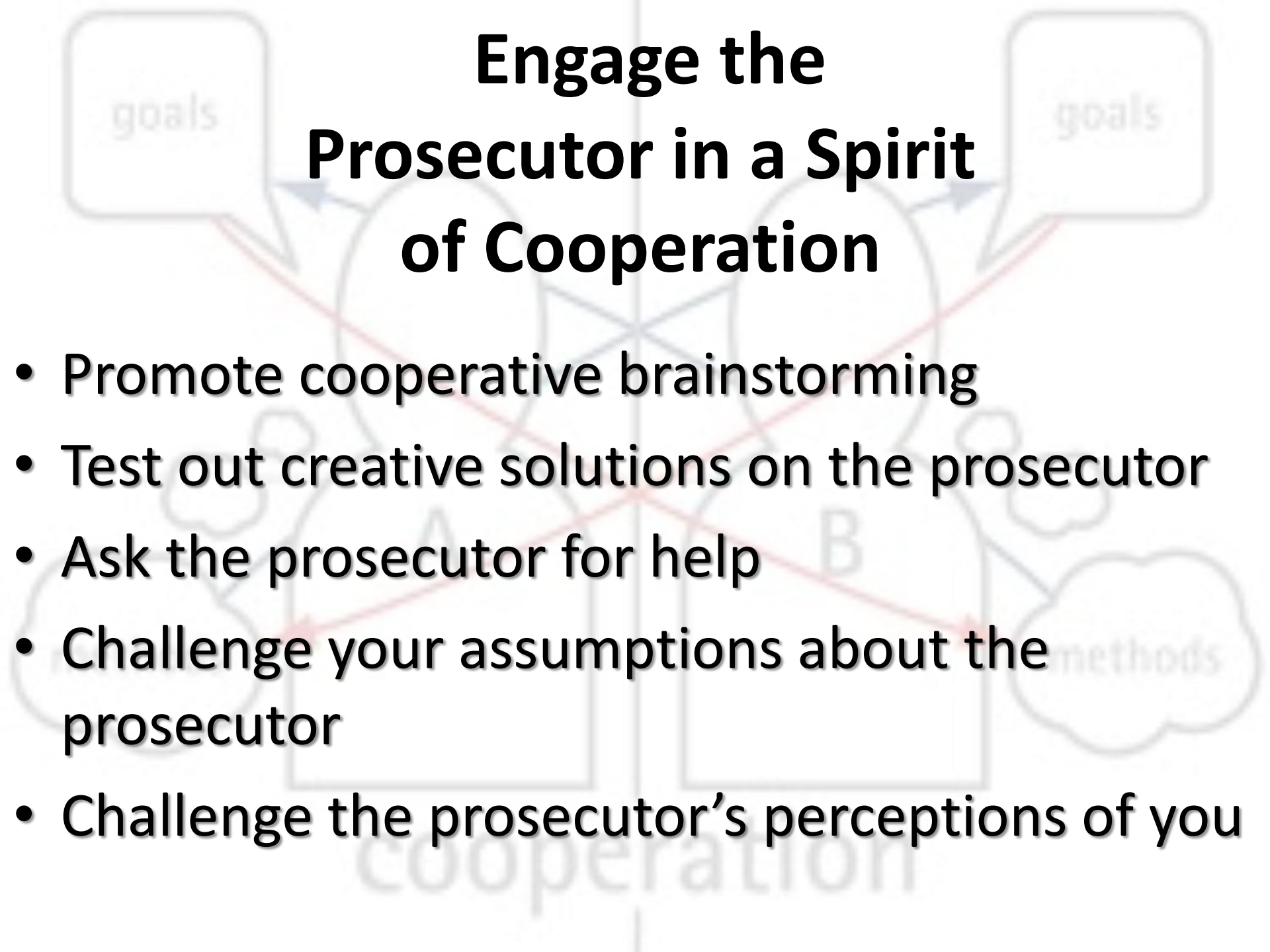
- Client interview.**
- Investigation and research.**
- Scout the prosecutor.**
- Know your victim.**
- Keep a book on the judges.**
- Research fair standards.**
- Enter the negotiation with a conscious strategy.**

# General Principles of negotiation

# **Stop, Look and Listen**

- Where is prosecutor coming from?
- Observe body language
- Listen more – talk less
- Really listen
- Put yourself in prosecutor's shoes
- Ascribe good reasons to prosecutor even when you are not sure they fit



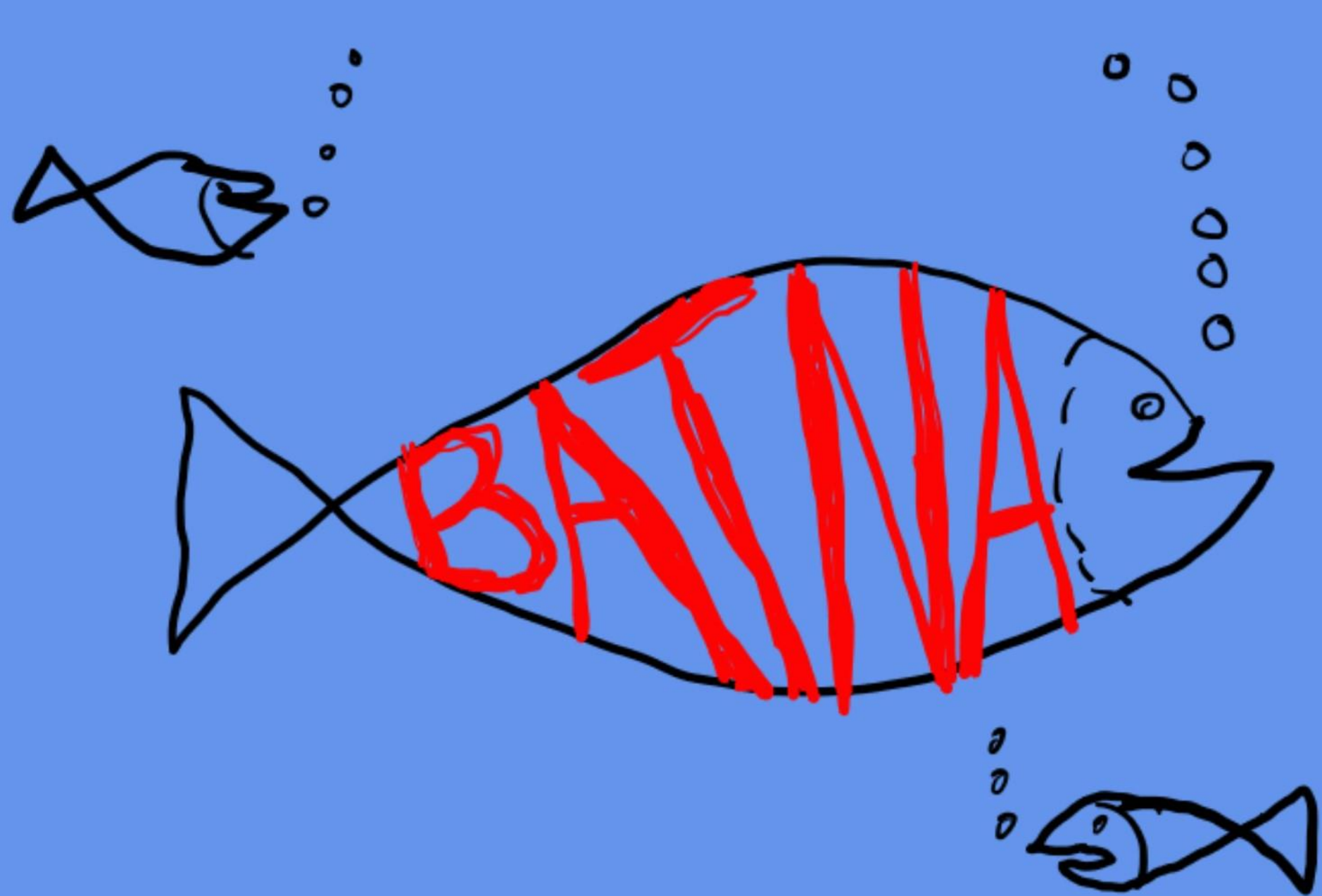


# **Engage the Prosecutor in a Spirit of Cooperation**

- Promote cooperative brainstorming
- Test out creative solutions on the prosecutor
- Ask the prosecutor for help
- Challenge your assumptions about the prosecutor
- Challenge the prosecutor's perceptions of you

# **Involve Other Participants**

- **Victims**
- **Police officers**
- **Client**
- **Client's family**
- **Character witnesses – teacher, employer, etc.**



# DO YOU KNOW YOUR BATNA?







**"I never fucked anybody over in my life, who didn't have it comin' to 'em, you got that? All I have in this world is my balls, and my word, and I don't break 'em for no one, you understand?"**

"Say hello to my  
little friend!"



SCARFACE



# **Close Well**

- **Make it easy for the district attorney**
- **Secure the agreement in writing**
- **Do not do anything to create buyer's remorse**

# **Some Negotiations Fail**

- **Sometimes there must be a winner**
- **Negotiation initiated too soon/late**
- **One person doesn't really want to negotiate – imbalance of power**
- **One person not prepared**
- **Sites set too low/high**
- **Becomes personal**
- **Lack of trust**
- **Impatient**
- **Unable to move off position**
- **Talk too much**

# **Advance Negotiation Research**

Average

VS

Skilled Negotiators

THE  
DINOSAURS

NOTABLE  
WOMEN

OXFORD  
ENGLISH  
DICTIONARY

NAME THAT  
INSTRUMENT

DELHIUM

COMPOSERS  
BY COUNTRY

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# **Amount of time planning?**

- **Average**
- **Skilled**
- **No difference**

# **Amount of time planning?**

- **No difference**



# Exploring options?

- **Average**
- **Skilled**
- **No difference**

# Exploring options?

- **Skilled**

# **Concentration on areas of common ground**

- **Average**
- **Skilled**
- **No difference**

# **Concentration on areas of common ground**

- **Skilled – 3x as much time.**

# Setting goals?

- **Average**
- **Skilled**
- **No difference**

# Setting goals?

- **Skilled**



# Sequencing of negotiation?

- **Average**
- **Skilled**
- **No difference**

# Sequencing of negotiation?

- **Skilled**

# Use of Irritators?

- **Average**
- **Skilled**
- **No difference**

# Use of Irritators?

- **Average**
- **Warning Will Robinson – Irritators can be negative “That’s a ridiculous offer” or positive “I’m making you a very generous offer”**

# Attacking and defending spirals?

- **Average**
- **Skilled**
- **No difference**

# Attacking and defending spirals?

- **Average**
- **However...**



# Counterproposals?

- **Average**
- **Skilled**
- **No difference**

# Counterproposals?

- **Average**
- **Skilled negotiation average 1.7 counterproposals per hour of negotiation.**

# **Warning that a question or proposal was coming.**

- **Average**
- **Skilled**
- **No difference**

# **Warning that a question or proposal was coming.**

- **Skilled**

**4x as often.**

# **Warning that a disagreement was coming.**

- **Average**
- **Skilled**
- **No difference**

# **Warning that a disagreement was coming.**

- **Average**
- **Skilled negotiators state the reason for the disagreement first rather than starting with I disagree...**



# Testing understanding and summarizing?

- **Average**
- **Skilled**
- **No difference**

# Testing understanding and summarizing?

- Skilled
- Twice as much time.

# Asking questions?

- **Average**
- **Skilled**
- **No difference**

# Asking questions?

- **Skilled**
- **2x as many questions.**

# Questions...

- **Provide information about what the other thinks.**
- **Help control the discussion.**
- **Much more effective than direct disagreement.**
- **Help to provide breathing space.**
- **Questioning style is key.**

# **Gives more reasons to support their argument?**

- **Average**
- **Skilled**
- **No difference**



# **Gives more reasons to support their argument?**

- **Average**

# **Spend time reviewing their negotiation?**

- **Average**
- **Skilled**
- **No difference**

# **Spend time reviewing their negotiation?**

- **Skilled**
- **Overwhelmingly so.**

# Wrap Up

- Try to negotiate on principles, not positions
- Creatively solve problems, don't haggle over positions
- Enlist the support/cooperation of your adversary
- Talk less, listen more.
- Ask questions.
- Go to the mattresses when necessary.

