

NEGOTIATION BRIEFINGS



Negotiate for what you need to succeed

You may be adept at negotiating for your organization, but are you passing up career opportunities back at the office?

One of the more interesting tidbits to emerge from the December 2014 leaks of hacked Sony Pictures data was an e-mail revealing a young actress's efforts to be paid on the same level as her male peers.

In a December 2013 e-mail to Sony Pictures cochair Amy Pascal, Columbia Pictures executive Andrew Gumpert wrote that actress Jennifer Lawrence's legal representatives had complained that she was being paid only 7% of the profits of the film *American Hustle*, as compared with the 9% being earned by each of her male co-stars—Christian Bale, Bradley Cooper, and Jeremy Renner. The film's other female lead, Amy Adams, was tied with Lawrence at 7%. Columbia, a Sony subsidiary, had cofinanced the film with Annapurna Pictures.

In his email, Gumpert reminded Pascal that Lawrence originally had been given 5% of the film's take, an amount that Sony had bumped up to 7%. "There is truth here," Pascal wrote in reply, acknowledging the pay discrepancy. Gumpert suggested that Annapurna should bear the burden of increasing Lawrence's and Adams's pay, if warranted.

How the negotiation initiated by Lawrence's representatives unfolded remains unknown, but the anecdote points to some of the challenges that women continue to face in workplace negotiations: subtle, perhaps unwitting discrimination, and confusion about when and how they should ask for more.

More broadly, both women and men are often uncertain about what's negotiable and what's not when it comes to their careers, write Simmons College School of Management professor emerita Deborah M. Kolb and writer Jessica L. Porter in their new book, *Negotiating at Work: Turn Small Wins into Big Gains* (Jossey-Bass, 2015). We may bargain hard on behalf of our organization with clients and customers, yet have difficulty negotiating our pay, benefits, and assignments back at the office. Though aimed particularly at women, the advice in Kolb and Porter's book will help negotiators of both genders gain the information, skills, and confidence they need to improve their success and satisfaction at work.

The challenges of "small n" negotiations

In *Negotiating at Work*, Kolb and Porter make a useful distinction between "capital N" negotiations and "small n" negotiations. Capital N-negotiations are the familiar formal exchanges over contracts and deals that we engage in with our clients and customers. In N-negotiations, we act as agents lobbying for the good of our division or organization. N-negotiations follow a somewhat predictable path: They occur at set times (such as at budget time or when a client initiates contact) and require similar skills, such as listening actively, generating options, and making tradeoffs.

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Negotiation Briefings is published monthly by the Program on Negotiation at Harvard Law School, an interdisciplinary university consortium that works to connect rigorous research and scholarship on negotiation and dispute resolution with a deep understanding of practice. Articles draw on a variety of sources, including published reports, interviews, and scholarly research.

© 2015 President and Fellows of Harvard College (ISSN 1546-9522).

POSTMASTER: Send address changes to *Negotiation Briefings*, Program on Negotiation, P.O. Box 230, Boyds, MD 20841-0230.

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By contrast, n-negotiations are the more personal and informal workplace situations in which we negotiate for ourselves.

Suppose you are assigned to a new role and realize you don't have the resources you need to fulfill it adequately. Or imagine you work for a small organization that hasn't given you a raise in two years. Or consider Lawrence's case, in which it seems she and her agents did not know she was being paid less than her male colleagues until the profits of *American Hustle* were already being distributed.

In n-negotiations such as these, your counterpart may see no need for negotiation, leaving it up to you to initiate talks. Hollywood stars and others working through agents can assign their representatives to bring up such sensitive matters, but the rest of us are on our own.

How gender complicates n-negotiations

Historically, women have been at a disadvantage in workplace negotiations, a trend that continues today. Though women comprise almost 50% of the U.S. labor force and are more likely than men to be college graduates, they continue to be underrepresented in leadership positions and are paid less than men. To take another example from the Sony Pictures leak, an internal spreadsheet revealed that only one of Sony Pictures' 17 employees earning more than \$1 million annually was a woman, and the male copresident of Columbia Pictures earned almost \$1 million more than the woman who shared his job.

As this example and the broader employment data show, women generally have more job-related issues to negotiate than men do. In Lawrence's case, she and her agents needed to negotiate for pay parity, but Kolb and Porter identify a range of other issues that women have to negotiate that their male colleagues may not. Given that senior leaders (most often men), for example, tend to hire in their own image, women are more likely to have to put themselves forward for jobs. When leaders assume that family responsibilities will preclude women



Jennifer Lawrence (center) and the cast of *American Hustle*

from taking on overseas roles or traveling for work, women have to make the case for themselves.

In addition, people tend to ask women more than men to help out with low-visibility, thankless tasks, such as support roles and mentoring, Sara McLaughlin Mitchell and Vicki L. Hesli of the University of Iowa found in their research. It's up to women to make those roles pay off by enhancing the work's profile, ensuring they're adequately compensated, and getting the support they need. Similarly, assumptions about who can legitimately negotiate for flexibility can inhibit men from initiating certain n-negotiations. Given the traditional gender role of men as breadwinners who put in long hours for high salaries, for example, men may be reluctant to negotiate for family leave or flexible work arrangements, such as a part-time schedule or the ability to work from home.

One of the major challenges of n-negotiations is that because you are raising issues that might be uncomfortable for others, you are likely to meet resistance. For this reason, it's crucial to get yourself into a good position to negotiate and come prepared with creative proposals to resolve the issues you raise.

Gather information from your network

One reason we hold back from negotiating is that we don't know what's possible for us to achieve. By gathering information, we educate ourselves about

the parameters of a negotiation and set higher goals, which often become self-fulfilling prophecies.

One of the best sources of information is your network—the contacts, near and far, you’ve accumulated throughout your career.

Consider the story of Claudia, a successful Chicago-based managing director in sales for a large international bank, as described by Kolb and Porter. Claudia’s husband had taken a job in London, and they were eager to be together again. Thanks to a recommendation from her boss, Claudia was contacted by Giles, a sales VP at the bank’s London branch, about a job there that would be a lateral move for her. She wanted to negotiate the terms of the position but was hesitant because Giles didn’t seem enthusiastic about hiring her.

Claudia reached out to two of her contacts in the London office for more information. The first, in human resources, told her about a relocation package for expatriates that Claudia resolved to ask Giles about. Her second contact revealed that Giles was under some pressure to consider Claudia for the job; she encouraged Claudia to take a collaborative approach in her negotiations with him—to connect what she needed (package and support) to what was good for Giles’s division (serving the clients). The inside information gave Claudia confidence by making her feel that the issues she needed to negotiate with Giles were legitimate.

Bringing a reluctant party to the table

Once you feel legitimate about asking for more, thanks to thorough preparation, you’re ready to negotiate.

First, you need to position yourself to motivate someone to negotiate with you by making your value visible in a currency that matters to them, write Kolb and Porter. With forethought, you’ve done some of this work in advance—for example, by letting leaders in your organization know about your and your team’s achievements as they happen. But at the outset of the negotiation, making

your value visible can be even more important. Lisa, an executive in business development, wanted to negotiate an expanded role for herself, something she thought her boss might resist. After she reminded her boss of her group’s performance in the last quarter, he seemed a bit more open to her ideas.

It’s also important to generate creative options and to consider the “good reasons” the other party might have for saying no to them. Take the case of Cheryl, who relocated to her firm’s corporate headquarters in Texas after being promoted to CFO. Two years in, her family was unhappy and wanted to move back to Pennsylvania. Cheryl wanted to negotiate to work long distance, but she knew her boss would be concerned about her performance and the fact that she’d be violating precedent. So Cheryl proposed what she called a “tri-office”—splitting time between the corporate office in Texas, the field, and an office in the Northeast. The arrangement could be on a trial basis, she said, with her performance evaluated according to clear metrics. Her boss agreed, and the tri-office worked so well that it became permanent. Interestingly, Cheryl not only negotiated an advantageous solution for her and her family but also changed her company’s precedent that senior leaders needed to be

located at the corporate office—the type of organizational change that Kolb and Porter refer to as a “small win.”

If a potential partner remains reluctant to negotiate, you need to find ways to increase your leverage by raising the costs of the status quo. That might mean making each party’s BATNA, or *best alternative to a negotiated agreement*, more obvious. Armed with a strong BATNA, you may actually have more power in a potential negotiation than someone who is higher than you in the organizational hierarchy.

Take the case of Isobel, a communications manager described by Kolb and Porter, who had been taking on crisis-management work for another department’s clients in addition to her own job. Her boss would have liked for this arrangement to continue, but Isobel wanted to negotiate a promotion and restructuring to make this crisis-management work part of her portfolio. Following the advice of her mentor, Isobel forced herself to turn down the next crisis request, saying she just didn’t have the time. The client approached her boss and told him they needed Isobel’s help. Suddenly, her boss was ready to negotiate with her. As this example shows, allies can be crucial in helping you make your case. ■

Say “Yes, and . . .”

When asked to take on a new role at work or to do someone a favor, we often view such requests as yes-or-no propositions. Instead, Kolb and Porter recommend saying “Yes, and . . .”: “Yes, I’ll take on this assignment. And here’s what I need to do so.”

Let’s look at what happened when Alexandra was asked by her boss to help out in another division of the organization. Saying yes would have meant relinquishing leadership of a long-term project that was about to yield results. Alexandra was also concerned about her title, her specific responsibilities, and her long-term role after the “helping phase” was complete.

Rather than show great enthusiasm for the role—something she was tempted to do but didn’t feel—or asking her boss a lot of questions, Alexandra said she was not sure that she could say yes to the request but that she would like to discuss it further. Her boss, surprised, immediately asked her what it would take for her to say yes. As a result, Alexandra was able to convert a situation that her boss had not considered negotiable into a negotiation.

SECRET AGENT MAN: SHOULD YOU KEEP YOUR DEAL PRIVATE?

President Obama recently surprised the world with the outcomes of three high-profile negotiations.

We look at the pros and cons of a clandestine approach.

In Washington, D.C., press leaks and rumors are practically the local currency. Secrets frequently explode into the public eye, and key negotiations sometimes seem to unfold on parallel tracks—in the media and behind closed doors.

All the more surprising, then, that during his second term in office, President Barack Obama and his administration managed to keep three major negotiations under wraps until the i's were dotted and the t's were crossed on the final agreements:

- In November 2013, the United States and five other world powers announced a landmark accord to temporarily freeze Iran's nuclear program and forge a broader long-term agreement. The accord was largely the result of top-secret talks between American and Iranian officials.
- China and the United States—the world's two largest polluters—revealed in November 2014 that over the course of the previous nine months, they'd secretly negotiated bilateral commitments aimed at slowing global climate change.
- In December 2014, the Obama administration announced that it had reached a deal with Cuba to open negotiations aimed at restoring full diplomatic relations. The deal hinged on the quietly negotiated release of an American contractor held in Cuba for five years.

Negotiations aren't always interesting or relevant enough to outsiders to warrant the type of cloak-and-dagger precautions taken by the White House. But when they are, an understanding of how the Obama administration maneuvered in this delicate terrain may help your organization secure privacy for its most sensitive talks. We offer three guidelines: (1) weigh the benefits of secrecy against those of transparency, (2) negotiate the terms of secrecy agreements, and (3) implement control and discipline.

1. Weigh secrecy against transparency.

Before taking steps to conceal a planned negotiation, you should consider your motivation and the potential risks. Obviously, concealing negotiations because they are ethically and legally questionable is always a mistake. If you have qualms about how a negotiation could affect outsiders, consult your conscience and, perhaps, your organization's lawyers.

Keeping interested outsiders apprised of your progress in a sensitive negotiation can be beneficial. For example, to show transparency, a town government might be wise to keep community members in the loop as it negotiates with a company over a proposed development project. Though interested observers don't have to be educated about every twist and turn in the negotiation process, a carefully timed tweet, joint press release, or community meeting can tamp down public suspicion of negotiators' motives and allow the parties to incorporate useful feedback before it's too late.

“Negotiations are like mushrooms: They grow in the dark.”

On the other hand, a communications blackout may be desirable for legitimate reasons, as when a negotiation could reveal trade secrets or privileged financial information; merger discussions are often shrouded in secrecy for these reasons. If your counterpart, marketplace competitors, or other adversaries could benefit from knowledge related to a potential agreement, you have reason to keep talks under wraps.

Political and business leaders alike sometimes choose to conduct high-risk negotiations in secret to avoid the possibility of a public failure. Given the long-standing U.S. embargo against

Cuba, for example, revealing Obama's interest in reaching out to the Castro regime would have set the White House up for harsh criticism if any leaks emerged or the talks collapsed in the public eye. Similarly, observers might look askance at a company that suffers a humiliating negotiation defeat or impasse.

“Negotiations are like mushrooms: They grow in the dark,” the Brookings Institute's director of foreign policy, Martin S. Indyk, told Mark Landler for a December *New York Times* article on Obama's secret deals. “That's especially true of negotiations between longtime adversaries, where the domestic politics on both sides make it impossible to reach a deal if the negotiations are conducted in public.” Indyk would know: On behalf of the Obama administration, he led highly scrutinized Israeli-Palestinian negotiations that failed in 2014.

2. Negotiate the terms of secrecy.

Because you'll never be able to keep a complex negotiation quiet on your own, you will need to convince your counterpart of the benefits of doing so, if she doesn't see them already. Include the topic on your list of issues for prenegotiation discussion. Before substantive talks begin, negotiate who will be involved, where they will meet, and the type of information they will share. If the other side doesn't see the need for secrecy, you might offer enticements for their cooperation, or you might convey the value you place on the issue by making privacy a precondition to negotiation. If the other party doesn't seem to be taking your concerns seriously, you may want to find another negotiating partner.

A “no leaks” pact could be informal (sealed with a handshake) if trust is strong between parties; alternatively, your lawyers could draft a binding agreement. Companies often negotiate

official nondisclosure agreements when one or both will be sharing confidential information with the other, for instance.

3. Implement control and discipline.

In particularly sensitive environments, simply agreeing to keep negotiations quiet may be insufficient to ensure privacy. If the press, your competitors, or others are actively following your every move, added precautions may be needed.

One strategy that Obama used to throw observers off the track in two of his recent top-secret negotiations was to use very small teams of unlikely negotiators. An administration official told Landler of the *Times* that assigning nondiplomats to lead sensitive negotiators helps protect secrecy because colleagues are unlikely to suspect their involvement.

After multiparty talks over Iran's nuclear program failed in late 2011, for example, then U.S. secretary of state Hillary Clinton asked a relatively low-level aide, Jake Sullivan, to initiate secret back-channel contact with Iranian officials. Sullivan traveled to Oman, where he and a colleague "crashed on a couch" in an American embassy-owned house between meetings with Iranian representatives and an Omani sultan playing the role of middleman, recounts Landler. Eventually, Deputy Secretary of State William J. Burns helped to fill out the skeletal negotiating team.

Similarly, Obama handpicked two young aides to lead talks with Cuba: Benjamin J. Rhodes, a White House adviser and speechwriter; and Ricardo Zuniga, a

Cuba expert who had served the United States in Havana. Encouraged by Obama and Pope Francis, the delegation of two sneaked out of Washington on commercial flights to meet with "an only slightly larger" Cuban delegation nine times in Canada and at the Vatican, write Landler and Michael R. Gordon in the *Times*.

U.S. climate-change negotiations with China were more straightforward, with Secretary of State John Kerry leading a team of heavy-hitting climate advisers. Although less subterfuge may have seemed necessary because of the slightly lower profile of the talks relative to those with Cuba and Iran, the Obama administration still kept them quiet—likely due to fear of being criticized if they failed—until the agreement was ready to be unveiled.

The administration's strategy doesn't mean you should assign untested negotiators to lead high-level talks simply for the sake of preserving secrecy. Rather, it suggests the importance of creative strategizing, tight control of negotiations from the top, and discipline when privacy is paramount.

Despite all your precautions, you can never be sure that your negotiations will remain under wraps. WikiLeaks' ongoing declassification of government documents and last year's hacking of Sony Pictures illustrate this point well. Remind your negotiating team members that all their communications during talks should reflect their noblest values and those of your organization. ■

When private disputes go public

Negotiators are often tempted to take high-profile negotiations and dispute-resolution efforts public with the goal of winning in the court of public opinion. In 2011, for example, dozens of National Football League (NFL) players served as armchair quarterbacks during their union's standoff with team owners over a new collective-bargaining agreement. Supported by the NFL Players Association, the players expressed their displeasure with the talks via Twitter.

This strategy may succeed in drumming up support, but it can backfire at the bargaining table. That's because the larger the audience for your negotiation is, the more competitively you and your counterpart are likely to behave, write Harvard Business School professors Deepak Malhotra and Max H. Bazerman in their book *Negotiation Genius: How to Overcome Obstacles and Achieve Brilliant Results at the Bargaining Table and Beyond* (Bantam, 2007). A counterpart who's angered by your or your supporters' criticisms might retaliate by making embarrassing public revelations about you or filing a lawsuit.

All the more reason, then, to hash out your differences behind closed doors.

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Negotiation research you can use

Two new studies look at how our emotions affect negotiated outcomes.

Feeling ambivalent in negotiation? No worries

Business negotiators often find themselves feeling positive and negative emotions simultaneously, such as concern that an offer won't be received well and excitement over the offer's potential.

We often try to squelch our emotions for fear of appearing unstable or vulnerable. Indeed, past research has suggested that expressions of emotional ambivalence—the signs of tension or conflict that show in our faces and bodies when we experience negative and positive feelings at the same time—can be dangerous in zero-sum *distributive negotiations*, or those where negotiators are battling over a fixed pie of resources. In such situations, counterparts tend to view ambivalent negotiators as submissive and consequently are able to dominate them.

But a new study suggests that in the more complex negotiations that are typical of our business and personal lives, feeling and expressing conflicting emotions may actually be beneficial. In their new study, Naomi B. Rothman of Lehigh University and Gregory B. Northcraft of the University of Illinois looked at how emotionally ambivalent negotiators are perceived in *integrative negotiations*, or those where negotiators have opportunities to create value across issues.

In one of their experiments, where participants were encouraged to cooperate, some watched a silent videotape of a negotiation in which one party (an actor) appeared either happy, angry, ambivalent, or unemotional. The participants who watched a video were told they would engage in a negotiation simulation over a new car via instant messaging with the person in the video; in actuality, they were paired with another

participant who had not seen a video. During their 30-minute negotiation, the pairs of participants could potentially claim or create value across such issues as sales price, warranty, financing, and delivery date.

When participants were negotiating with a partner they perceived as emotionally ambivalent, pairs achieved higher joint value than did pairs in which the partner had expressed anger or no emotion. (When partners expressed happiness, the results were inconclusive.) Participants perceived ambivalent partners as submissive, and this submissiveness explained the pairs' success at creating value. Expressing ambivalence may have invited assertive behavior from negotiation partners and thus helped expand the pie of resources.

Thus, your conflicting emotions in multi-issue negotiations may be less of a hindrance than you might think, especially if you can set a cooperative tone.

Resource: "Unlocking Integrative Potential: Expressed Emotional Ambivalence and Negotiation Outcomes," by Naomi B. Rothman and Gregory B. Northcraft. Organizational Behavior and Human Decision Processes, 2015.

Anxiety and first offers

In negotiation, the question of whether to make the first offer looms large. Though "anchoring" talks with an initial offer can be risky when you know little about the bargaining zone, many studies have found that negotiators who do their research claim the lion's share of the value by making the first offer.

Yet for some negotiators, this advantage may be overshadowed by the anxiety of putting the first offer on the table, researchers Ashleigh



Shelby Rosette of Duke University, Shirli Kopelman of the University of Michigan, and JeAnna Lanza Abbott of the University of Houston found in a new study. In two experiments, the team had pairs of participants engage in price negotiations. Those who made the first offer performed better financially than those who did not, but they also experienced greater anxiety, which was rooted in the concern that their counterpart would take advantage of them. As a result of this anxiety, those who made the first offer were less satisfied with their outcomes than those who did not—even though their results were superior.

Anxiety-prone negotiators shouldn't conclude from the study that they should sit back and wait for the other side to move first. By engaging in role-playing, the researchers suggest, negotiators can practice making the first offer in a safe setting and should be able to quell their nerves.

Resource: "Good Grief! Anxiety Sours the Economic Benefits of First Offers," by Ashleigh Shelby Rosette, Shirli Kopelman, and JeAnna Lanza Abbott. Group Decision and Negotiation, 2014.



Tom Brady



Tom Brady with the Patriots

NEGOTIATION IN THE NEWS

The selfless QB? Tom Brady renegotiates with the Patriots

After renegotiating his contract with the New England Patriots, star quarterback Tom Brady attracted almost as much admiration for his seemingly selfless concessions as he has for his stellar performance on the field. But a closer look at the restructured deal suggests that Brady, once again, looked for an advantageous opening and came out a winner.

A confusing play

In 2010, Brady, who has played with the Patriots since 2000, agreed to a four-year, \$72 million contract extension that made him the highest-paid player in the National Football League (NFL). Brady's contract was extended further in 2013, when he signed on with the Patriots through 2017. By accepting "only" \$27 million in new money for the 2015, 2016, and 2017 seasons, Brady gave the team a hometown discount and freed up cash for Patriots owner Robert Kraft to invest in building a strong roster.

This past December, during the break between the regular NFL season and the Super Bowl victory he led his team to, Brady quietly restructured that renegotiated contract. To the surprise of many, he gave up the \$24 million "skill guarantee" built into his 2015, 2016, and 2017 base salaries—money he would have been paid only if his performance deteriorated and the Patriots decided to release him. This left Brady with only an "injury guarantee" (money he would be paid if terminated because of injury) for the remaining years of his contract, reports former sports agent Joel Corry for CBS Sports. In other words, Brady was allowing the Patriots to cut him, even if he's healthy, during the current off-

season without having to pay him future base salaries. In exchange for this apparent concession, the Patriots added what many viewed to be a paltry \$1 million to each of the remaining years of his contract.

For the Patriots, the move frees up \$24 million in cash that the team otherwise would have had to put in escrow in case they needed to pay it to Brady. Brady is left with \$8 million for 2015, \$9 million for 2016, and \$10 million for 2017. That may sound like a lot, but it's a "comically low" salary structure relative to other players of his caliber, writes Doug Kyed of the New England Sports Network. Brady's 2015 salary of \$8 million places him 14th among active NFL quarterbacks, despite the fact that his performance is regularly ranked in the top five in most categories and he continues to lead the Patriots to winning seasons. However, given that Brady is a wealthy man whose wife, model Gisele Bündchen, earns more than \$40 million annually, it wouldn't be surprising if he placed other issues above salary in his negotiations.

A hidden strategy

Brady's renegotiation was widely viewed as motivated by the desire to free up cash for the Patriots to spend on recruiting talented players. But this argument doesn't hold water, given the team's and owner Robert Kraft's healthy coffers, writes Bill Barnwell for ESPN-affiliated blog Grantland.

Instead, Barnwell theorizes, Brady became concerned about his future with the Patriots in the fall of 2014. His season got off to a rough start, beginning with his first opening-day loss since 2003. He

could foresee that the Patriots likely would not have released him if they decided to replace him with a younger quarterback, as this would have required them to pay Brady his \$24 million skill guarantee. The team could have avoided paying the guarantee only if Brady voluntarily retired or if they traded him to a team of their choosing—neither of which were appealing prospects for the 37-year-old quarterback, who has said he plans to play into his 40s and wouldn't have liked the risk of playing for a subpar team.

By negotiating away the skill guarantee, Brady ensured that he would become an unrestricted free agent who could choose his next team in the event that the Patriots cut him. Though there's a good chance Brady will play out the rest of his career in New England, both parties may have seen the value of building greater flexibility into his contract. "The Patriots want to be able to move on from Brady if he's not up to snuff," writes Barnwell. "And Brady surely wants to be able to choose where and when he goes out of football." The renegotiation secures both of those goals—and looks more and more like a win-win deal on close inspection.

3 tips for bigger negotiation wins:

1. Periodically reexamine the terms of your existing deals against your shifting objectives.
2. Recognize when long-term, intangible goals trump more obvious financial concerns.
3. Seize on opportunities for yourself that also meet the other party's interests. ■

Q: After working at the same company for many years, I was laid off. Although I was devastated, I decided to view this as an opportunity to take a year off and go on a trip around the world, something I'd always wanted to do. Many wonderful adventures later, I'm applying for jobs. When I'm asked for the name of my employer during 2014, I simply leave the question blank because I'm worried about making this gap in employment a bigger deal than it already is. Is my intuition right?

A: Your reluctance to draw attention to the gap in your employment is perfectly understandable. In everyday life, horror stories abound of people who have been denied admission to colleges or rejected for jobs because of their voluntary disclosures of information about themselves (many of which are made in the "heat of the moment" on social-networking sites).

But recent research I conducted with my Harvard Business School colleagues Kate Barasz and Michael Norton suggests that your intuition is wrong. We found that when faced with the choice between drawing attention to a sensitive fact—for example, an awkward employment gap—and hiding it, people often choose the latter, a strategy of omission that rouses suspicion.

In our series of experiments, we have found that withholding information on a given attribute (such as the name of your employer during the last year on a job application) causes people to view us negatively—even more negatively than if we were to disclose that we possessed the worst possible value on that attribute (in your case, that you were unemployed). For example, a candidate who opts out of providing a relevant exam grade on a job application will be judged even more harshly than someone who discloses an F, the lowest possible grade.

Why does this happen? When someone fails to reveal key information, we tend to make inferences about that person's character—namely, that she is the type of person who hides information and therefore is not to be trusted. In such instances, withholding information can lead to a "double whammy": The "hider" is assumed to possess the worst possible value on the given attribute *and* pays an (un)trustworthiness penalty. When faced with decisions about whether to disclose an embarrassing or sensitive piece of information, we need to be aware not only of the risk of disclosure, but of what hiding reveals.

Our findings shed light on the current debate surrounding a recent Supreme Court ruling (*Salinas v. Texas*, 2013). Genovevo Salinas, accused of murder, had been cooperating in a police interview but suddenly refused to answer when the line of inquiry shifted to the murder weapon. Salinas's unresponsiveness was subsequently presented as evidence in his 2007 trial for murder, in which he was convicted. Salinas later appealed to the Supreme Court, arguing that his Fifth Amendment rights had been violated. The court upheld the conviction, ruling that Salinas's refusal to answer the officers' questions was admissible evidence. Salinas may well be guilty of murder, but our research calls this

ruling into question by demonstrating that people are prone to drawing unwarrantedly negative conclusions from the absence of disclosure.

Getting back to your situation, I advise you to acknowledge your employment gap. If you can, include a cover letter in which you explain how you turned your bad luck into a good experience. By doing so, you will head off prospective employers from assuming the very worst about a nonresponse—and encourage them to view your travel as an asset that would bring valuable breadth and perspective to the role.



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SEND A QUESTION TO OUR NEGOTIATION COACH

By e-mail: negotiation@law.harvard.edu
(Please write "Q and A" in the subject line.)

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