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Negotiating with Allies within a Multi-Disciplinary Collaboration

October 13, 2016

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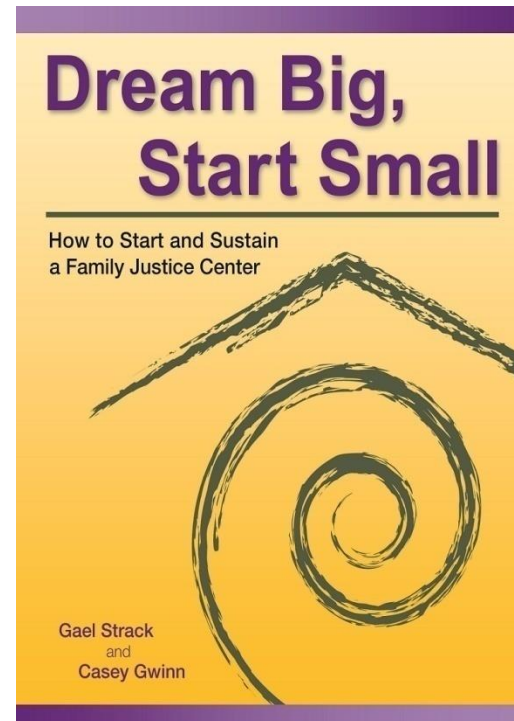
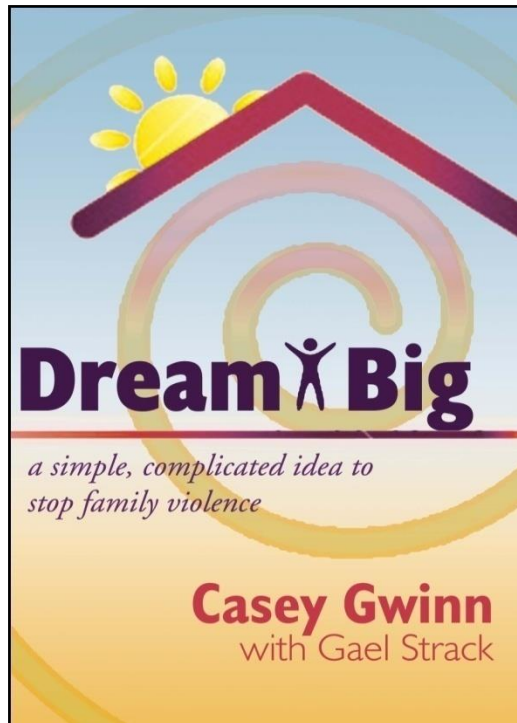
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Your Host:



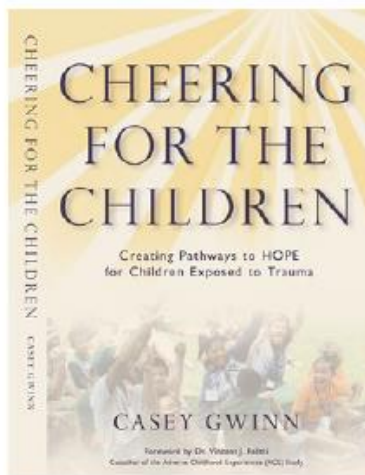
Casey Gwinn, Esq
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Your presenter today:



Alicia L. Aiken, JD
Director, Confidentiality Institute
Principal Consultant, Aiken Strategic Partners



NEGOTIATING WITH ALLIES IN A MULTI-DISCIPLINARY COLLABORATION

Alicia L. Aiken, J.D.
alicia@confidentialityinstitute.org

Alicia Aiken

- Attorney who has practiced in urban, suburban, and rural areas.
- Help collaborations navigate privacy.
- 15 years representing survivors of violence & people living in poverty.
- Experience in criminal defense and civil rights cases.



Learning Objectives

1. Understand the basic principles of interests-based negotiation.
2. Consider source of friction over confidentiality.
3. Articulate concrete strategies for negotiating with allies about confidentiality.



Poll #1

I have told a professional ally that I wouldn't share information with them.

- Frequently
- Sometimes
- At least once
- Never



Give us some examples



Poll #2

When a partner at my FJC won't give me information, it feels like:

- No big deal
- An uncomfortable inconvenience
- An upsetting thing, but it blows over
- A real damage to the long-term relationship



Chat in your thoughts:
Why is observing confidentiality hard in
multi-disciplinary collaborations?



Uncertainties in Collaborations

- Who is in charge?
- Are you here for the same reasons I'm here?
- Does co-location change any of my confidentiality rules?
- Do you like/trust/understand me?
- Wait, what's the goal here, exactly?



Assumptions & Confidentiality

- “Confidentiality means keeping secrets from the bad guys.”
- “If you keep secrets from me, you must think I’m a bad guy.”
- “If I can’t give you information you want, I can’t help you at all.”
- “If I’m not helping you, I’m not doing a good job/being a good ally.”



Stock Phrases that touch a nerve...

- “I can neither confirm nor deny whether we have worked with that person.”
- “I cannot comment on an ongoing investigation.”
- “HIPAA won’t let me answer that.”



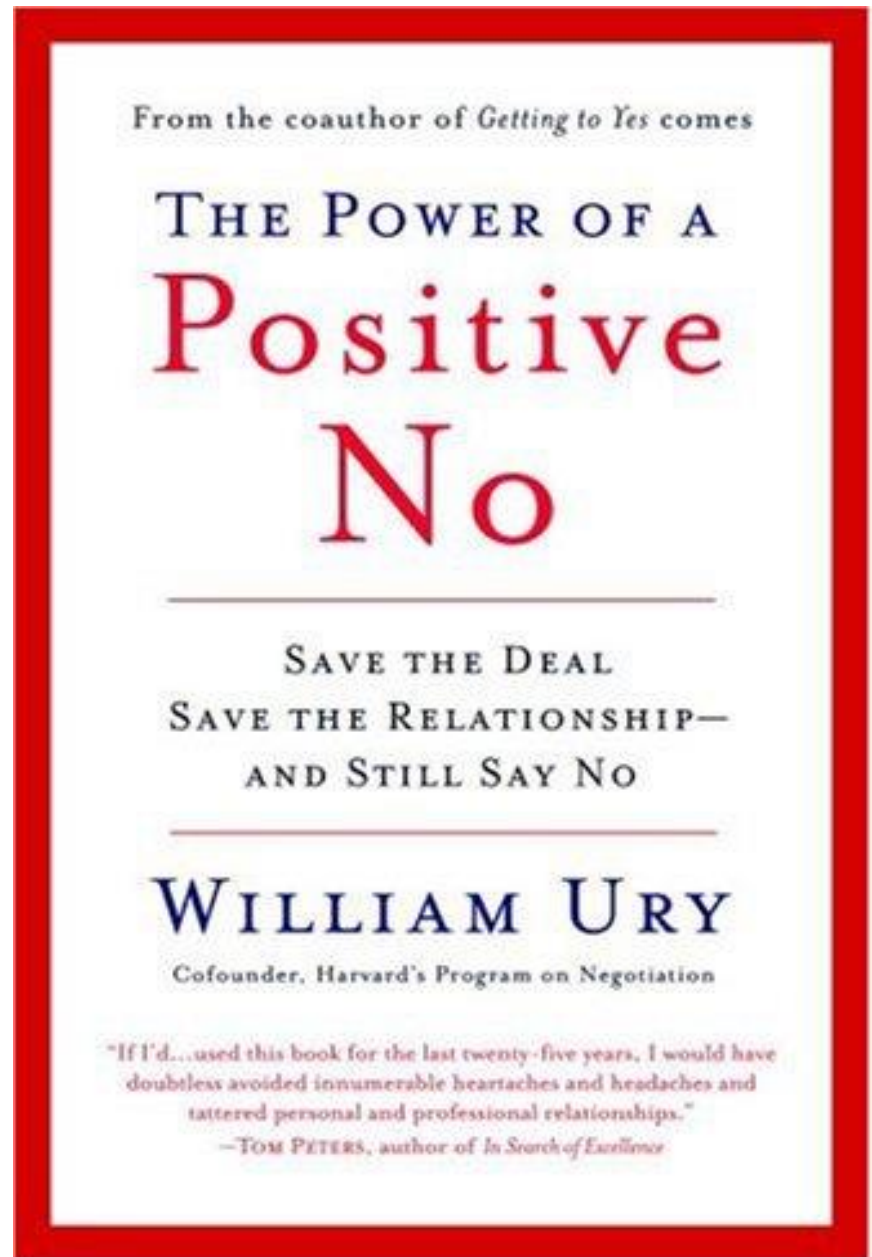


Typical Reactions to Hard Things?

- Aggression -
 - “I’m mad as hell and I’m not going to take it anymore!”
- Accommodation -
 - “I like you; I hope you like me. So... I guess I’ll give in here.”
- Avoidance -
 - “Oh... I’ve got to take this call.”



An Alternative Approach

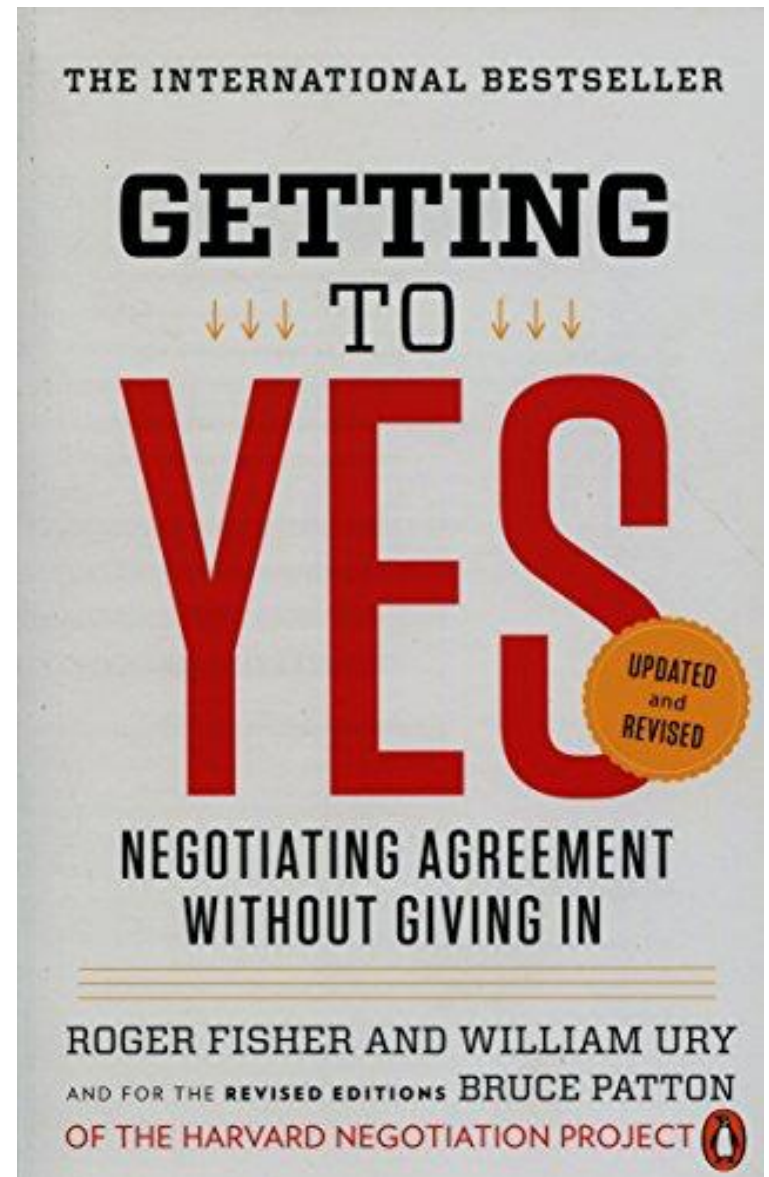


Develop the “Positive No”

- **Yes!**
 - You are always saying yes to something.
 - Figure out what it is & protect it.
- **No.**
 - Once the decision is made, be clear.
- **Yes?**
 - Offer alternative to build the relationship.



Interests-Based Negotiations



Respect & Real “Interests”

- Interests-Based Negotiation means:
 - Respect others
 - & manage your emotions
 - Understand interest of others
 - Understand your own interests
 - Find ways to meet *both when possible*
 - While staying true to your own interests



What are “Interests”?

- Why person cares about immediate issue.
- Why person does this work.
- What person wants others to think of them.
- What person is afraid of.
- What person hopes for.
- What person’s physical needs are.



Yes?

Text

No.

YES!

Example: Yes!

- YES! To Relationship:
 - “Thanks so much for the invitation.”
- YES! To Keeping Commitments
 - “I have a previous engagement that evening.”



Example: No. to Current Request

- Implied in “I have a previous engagement.”
- Could say, “so I won’t be able to attend.”



Example: Yes? To Relationship

- “I would really like to have the school Administration represented at this event.”
- “Is it acceptable for my assistant principal to attend in my absence if she is available?”



A Scenario

- Prosecutor
 - I need her to testify at trial against her husband.
 - She's not answering my phone calls.
 - Did she move back in with abuser?
- Advocate says...





Your “YES!”

Articulate the thing that matters to you: the person & the principle

- “Thanks for how hard you work on these cases.”
- “Given my ethical and legal duties, I let each victim choose what information to share.”



Be Honest about Your “YES!”

- Do you know what is really driving your reactions to the request?
- What are your interests here?
- What do you most want to protect?
- What are you worried about?



“No.” Protects “Yes!”

- Honestly assessing Yes! can *change* No.

So, these lawyers hired an HVAC contractor...



Your “No.”

Be clear & unequivocal so you can protect your Yes!

- “Because it is not my decision what information gets shared, I couldn’t answer that kind of question.”



Determine which “NO” it is

NOT EVER

- “I don’t have the ability to share that kind of information.”

NOT NOW

- “I need time to determine how I can help you here. I won’t be able to answer right now.”



Develop Your “Yes?”

Identify/Explore the person’s interests

- “I know you must be frustrated that the witness isn’t responding to you.”
- “What kind of time pressure are you under?”
- “If you don’t have this witness, what happens?”



Understand Other's Interests

- What is your ally trying to accomplish?
- What is your ally worried about?



Interests, NOT Positions

- Your ally's position might be -
 - “I need you to tell me if she left shelter.”
- Or
 - “You have to answer my questions.”
- Take time to discover ally's interests



What are the Prosecutor's interests here?

- Chat in your thoughts.



Interests Drive Actions

- “I want to choose the best strategy for the evidence available to me.”
- “I want to be seen as a good prosecutor.”
- “I want to know you and I are on the same team.”
- “I don’t want to lose a case.”
- “I’m scared someone I’ve worked with will get hurt by their abuser.”



Develop Your “Yes?”

Suggest alternatives

- “If I am working with a victim, I always make sure they know what is going on & have information about prosecution process.”
- “Can you help me understand what exactly you need this victim to do?”
- “Are there other ways I could help?”



Solutions Meet Interests

- Strategically communicate your own interests
- Listen to the other express her interests
- Respect the validity of each other's interests



Explore Possible Solutions

- “What if...” discussions
 - Just to visualize what might be possible
 - Identify what definitely won’t work
 - Consider ideas without committing to them



“What if...”

- “What if she has moved back in with abuser and won’t voluntarily testify, what can you do with the case?”



Active Listening

- Pay Attention
 - Listen to Understand, not to Respond
- Show you are paying attention
 - Body language
- Provide Feedback about your understanding
 - Reflect, summarize, clarify



Separate People from Problem

- *“Hard on the problem, soft on the people.”*
- Respect distinctions between different professional norms/goals

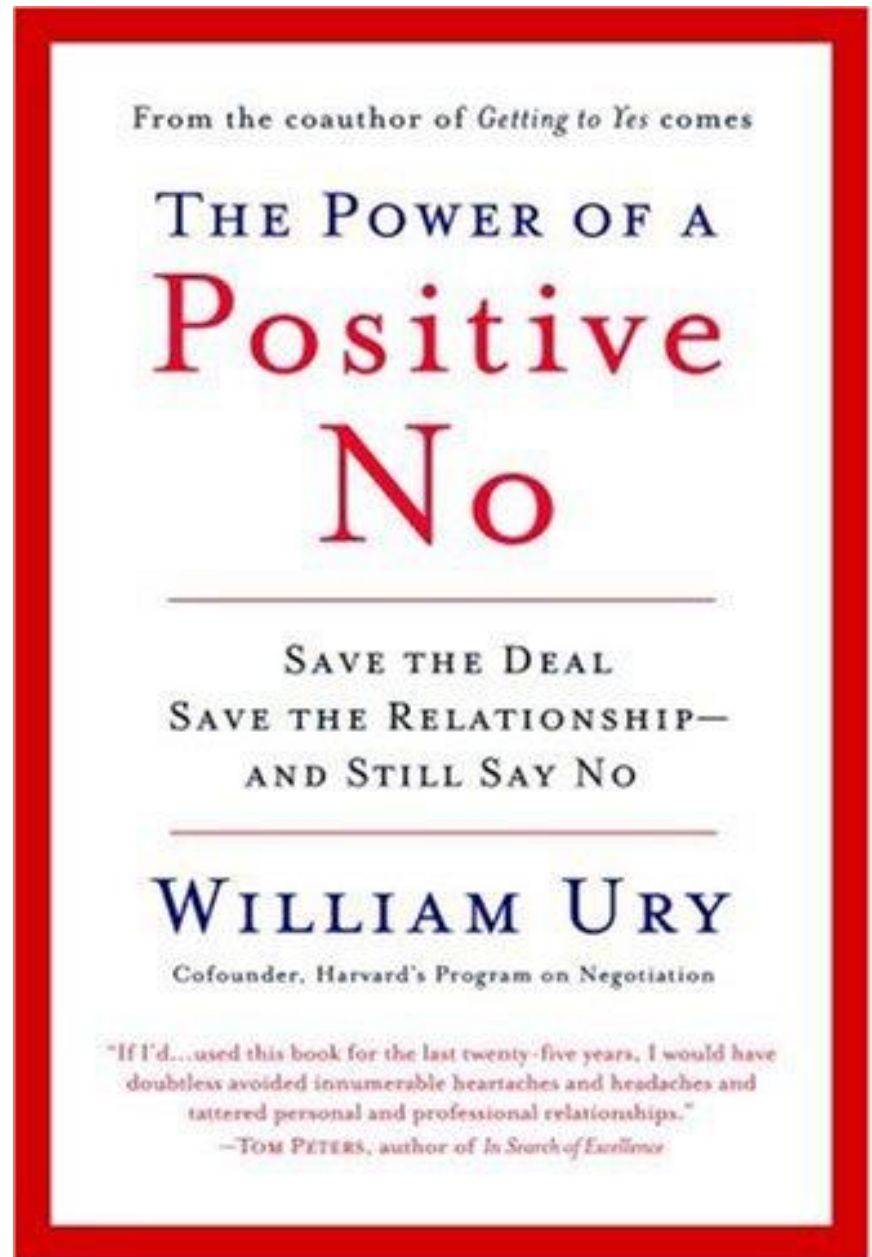


Use Objective Criteria: Confidentiality Infrastructure

- Agree on protocols for common areas of confidentiality friction.
- Create written materials communicating those agreements to front-line staff.
- Ensure protocols get communicated when turnover happens.
- Identify a confidentiality liaison in each organization.



An Alternative Approach



Got Questions?

- *Chat them in now*
- *Particularly thorny situations?*
 - *Let's analyze them together*



Further Questions

- Alicia Aiken,
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- NNEDV Safety Net,
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NEGOTIATING WITH ALLIES IN A MULTI-DISCIPLINARY COLLABORATION

Thank you!

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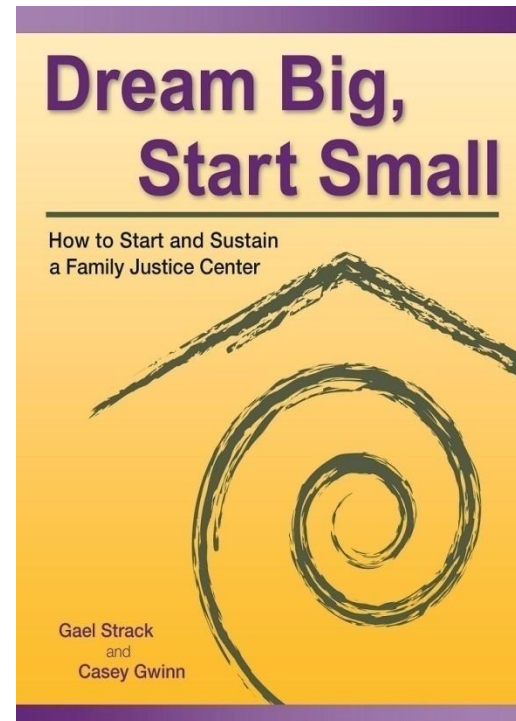
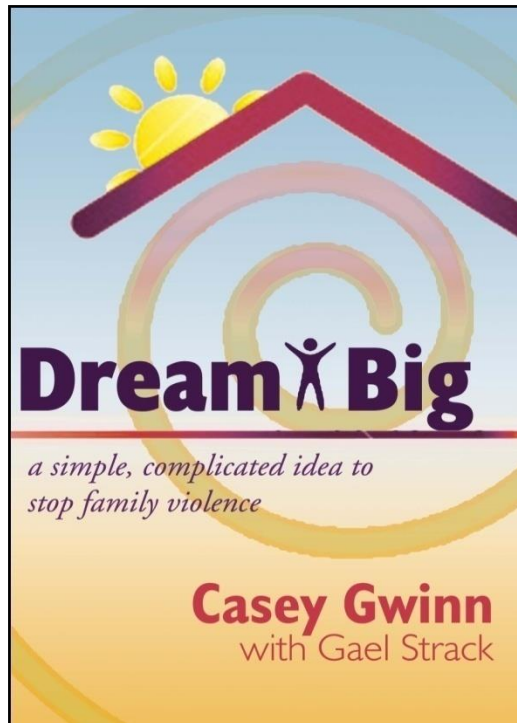


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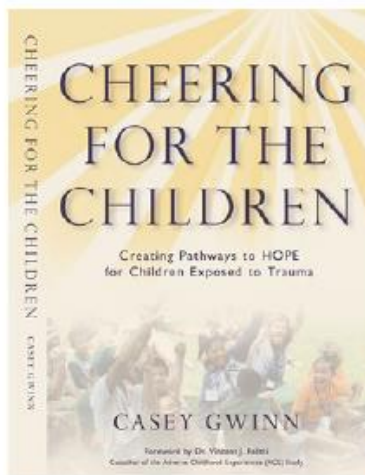


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