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The Rules Don't Apply to Me

by Beth Foley

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Americans have been bombarded with examples of powerful people acting like the rules don't apply to them. From governors to corporate executives to athletes—there seems to be a new example of poor judgment every week. Is there an upward trend in moral hypocrisy among powerful people? As a communication consultant, I am interested in the ritual that often follows these transgressions: the public apology. Why do the powerful turn to public apologies for leniency? Apologies can provide closure, forgiveness and, ultimately, clear a path for the company or person to rebuild their reputation. What is the social psychology behind these two simple words, I'm sorry? Why do some apologies work and some fail, or even backfire?

Moral Hypocrisy

Let's first look at moral hypocrisy, as it is so frequently the precursor to the increasingly prevalent public apology. Adam Galinsky, Professor of Ethics and Decision in Management at the Kellogg School of Management (Galinsky et al.) will soon publish research on the topic in *Psychological Science*. The research confirms what we already suspected: the powerful don't think the rules apply to them.

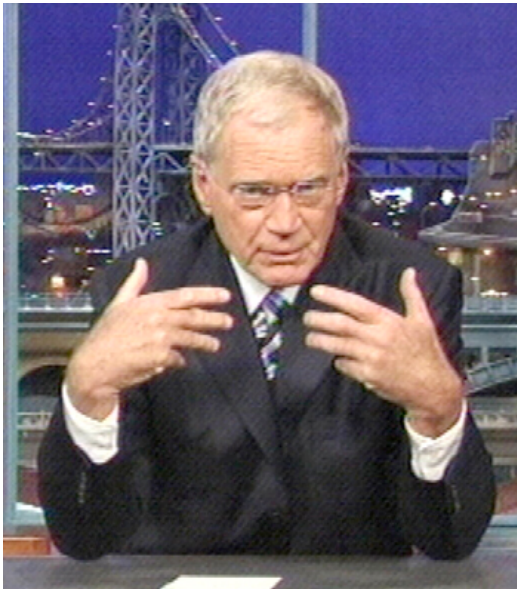
Through a series of five experiments, Galinsky et al. examined the impact of power on moral hypocrisy. Galinsky explains that, "In all cases, those assigned to high-power roles showed significant moral hypocrisy by more strictly judging others for speeding, dodging taxes and keeping a stolen bike, while finding it more acceptable to engage in these behaviors themselves. The powerful impose rules and restraints on others while disregarding these restraints for themselves, whereas the powerless collaborate in reproducing social inequality because they don't feel the same entitlement."

Galinsky recognizes the timeliness of his research, "This research is especially relevant to the biggest scandals of 2009, as we look back on how private behavior often contradicted the public stance of particular individuals in power." The trend continues in 2010.

The Rule of Reciprocity

I am often asked what is motivating the rule-breaker when he steps in front of the camera to apologize. In large part, he is relying on the rule of reciprocity to help clear a path to rebuilding his reputation.

In 1984, Robert Cialdini wrote a landmark book: *Influence: The Psychology of Persuasion*. In his book, Cialdini identifies the Rule of Reciprocity as one of the key weapons of influence. Cialdini describes several social experiments that show the rule dictates we are obliged to the future repayment of favors, gifts, invitations, aid, etc.



There is no human society that does not subscribe to the rule because, Cialdini (1984) explains, "Human societies derive a truly significant competitive advantage from the reciprocity rule, and consequently they make sure their members are trained to comply with and believe in it" (p. 19). According to Cialdini (1984) and his research team, "The rule possesses awesome strength, often producing a 'yes' response to a request that, except for an existing feeling of indebtedness, would have surely been refused" (p. 21). Cialdini further explains that the rule is powerful enough to get us to say yes to people we don't like and to get compliance for uninvited favors and unwanted debts.

Reciprocity starts a process of mutual concessions: "Just as in the case of favors, gifts, or aid, the obligation to reciprocate a concession encourages the creation of socially desirable arrangements by ensuring that anyone seeking to start such an arrangement will not be exploited" (Cialdini, 1984; p. 38).

Apologizing is one way to trigger reciprocity and get concessions. Many of the public apologies given in the last several months were not meant to evoke complete forgiveness. Instead they were a strategy to get relief from scrutiny, provide closure and start the process of reciprocal concessions. The reasoning is if I

humble myself and apologize to you, you are obliged to show me some degree of leniency and start the process of forgiveness.

How to Apologize Effectively

There are several examples of the good, the bad and the ugly when it comes to apologies. Choosing to apologize is a strategy; the act of actually giving an apology is an art. Apologizing is a fundamentally sound communication tool in American culture, but there is a societal code of conduct written around apologies. The most powerful apology is the Full Apology and it has several markers.

The Full Apology:

- Acknowledge what you did wrong.
- Take responsibility for your actions.
- Acknowledge the impact your actions had on others.
- Apologize for having caused pain or done damage.
- Repair the damage (offer money or a concession) or state your future intentions.
- Do not make excuses.
- A humble demeanor and appropriate nonverbal communication must match the spoken message.

Like giving someone a nicely wrapped gift box that is empty, leaving out any of these steps makes the Full Apology ineffective. Two recent public statements stand in stark contrast and demonstrate the mechanics of the tool.

Eliot Spitzer, Former Governor of New York

Mr. Spitzer staged a cold, unemotional recitation of a scripted apology, which he read with minimal eye contact and a guarded demeanor. His apology lacked sincerity as evidenced by its brevity and his distinct lack of eye contact with the audience. His nonverbal communication and tone was controlling and domineering, not humble. His statement included the words “I apologize,” but felt more like a political stump speech than a sincere apology. This apology did nothing to trigger the rule of reciprocity.



“Today, I want to briefly address a private matter.

I have acted in a way that violates my obligations to my family that violates my – or any – sense of right and wrong. I apologize first, and most importantly, to my family. I apologize to the public, whom I promised better.

I do not believe that politics in the long run is about individuals. It is about ideas, the public good and doing what is best for the State of New York.

But I have disappointed and failed to live up to the standard I expected of myself. I must now dedicate some time to regain the trust of my family.

I will not be taking questions. Thank you very much. I will report back to you in short order.”

Mr. Spitzer violated two important markers of an effective apology: First, an effective apology is not about the person who gives it, is about the person or people he hurt. By having his wife stand next to him and share in his public shame, he victimized her again. Although he did say “I apologize” to my family and the public, he spent equal time talking about his own political views and how he disappointed himself.

His second shortcoming is that he gave only a vague acknowledgement of what he did wrong. It is impossible to effectively apologize for the damage his actions caused without acknowledging the actions themselves. Perhaps he left out the details because it would emphasize his hypocrisy. After all, as Attorney General of the State of New York he aggressively prosecuted two prostitution rings. He gives no real evidence that he understands his own hypocrisy and how that violates the audience. Not only did this fail to trigger reciprocity and concessions, it angered his audience.

Tiger Woods, Professional Golfer

Conversely, Tiger Woods appeared embarrassed and ashamed in a public statement that lasted approximately 13 minutes. Though imperfect, his nonverbal communication overall and his saddened facial expressions were a clear indicator that he was sorry. Mr. Woods managed to do what most public apologists never can. He clearly admitted “I thought the rules didn’t apply to me.” In this one sentence he addressed the very reason his audience was mad and told the world he understands what he did wrong. Mr. Woods did not have his wife, the biggest victim of his transgressions, stand by his side but he did make an impassioned plea for the media to stop hounding her. The following examples demonstrate the full apology in action:



“I was unfaithful, I had affairs, I cheated.... What I did was unacceptable.”

“It’s now up to me to make amends, and that starts by never repeating the mistakes I’ve made. It’s up to me to start living a life of integrity.”

“I do plan to return to golf one day. I just don’t know when that day will be. I don’t rule out that it will be this years. When I do return, I need to make my behavior more respectful of the game.”

Conclusion

Supported by new research by Galinsky, et al., it is increasingly clear that many individuals in positions of power live as though the rules don’t apply to them. The rules do apply to us all. The rule of reciprocity is a powerful tool and there are clear rules of social engagement that monitor its effectiveness. It applies to all of us in every aspect of our lives: marriage, friendship, politics, merchandizing and litigation. Effective apologies take advantage of reciprocity by invoking a sense of obligation to offer leniency and forgiveness. Used in trial or in settlements, effective apologies can be leveraged to gain some leniency for both plaintiffs and defendants.

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Editor's Note

Welcome to our March 2010 issue of [The Jury Expert](#)! Once again, we have diverse and provocative offerings for you. Whether you flip first to our article on apology, choose to travel to East Texas, or ponder the impact of emotional evidence, see just how informative and persuasive visual communication can be, think about the goals of witness preparation, sweat through the surprising heat of attitudes toward atheists, consider the use of 606(b) in jury impeachment, or travel back in time with our March 2010 Favorite Thing, you are bound to have an experience that teaches you a thing or two and that means you have more interesting conversations with colleagues.

We are continuing to try new topics and formats of articles as we press forward with *The Jury Expert*. Let us know what you think (what should we do more of, what should we do less of, and what should we keep the same?) by sending me an email (click on my name below).

Tell us what you want to read. Tell us what you want to learn. Tell us what you are curious about (related to litigation advocacy). We will try to accommodate your questions, curiosities and desire for new topic areas.

You'll also see a bit of a new layout on our front webpage. We are looking for advertisers to help support costs of creating this publication and other activities of our publisher (the [American Society of Trial Consultants](#)). Read. Consider. Question. Comment on our website!

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