



## Mary Crane **Building Personal Resilience**

In 2017, the ABA’s National Task Force on Lawyer Well-Being called on legal institutions to create and implement processes that would place “health, resilience, self-care, and helping others at the forefront of what it means to be a lawyer.” In urging legal institutions to place an emphasis on resilience, the 2017 Task Force report noted, “resilience ... derives from a collection of psychological, social, and contextual factors—many of which we can change and develop. These include, for example, optimism, confidence in our abilities and strengths (self-efficacy), effective problem solving, a sense of meaning and purpose, flexible thinking, impulse control, empathy, close relationships and social support, and faith spirituality.”

The report recommended that the legal community model its resiliency efforts on programs already developed by other entities, including the U.S. Army’s Master Resilience Training program and resilience programs developed for physicians and medical residents.

Among the critical resiliency skills identified in the U.S. Army’s Master Resilience Training program are the following:

***Skill 1: Activating Events, Thoughts, and Consequences:*** Identify your thoughts about an activating event and the consequences of those thoughts.

***Skill 2: Avoid Thinking Traps:*** Identify and correct counterproductive patterns in thinking through the use of critical questions.

***Skill 3: Detect Icebergs:*** Identify deep beliefs and core values that fuel out-of-proportion emotion and evaluate the accuracy and usefulness of these beliefs.

***Skill 4: Energy Management:*** Enhance self-regulation so that you’re able to stay calm and focused during adversity to challenging events.

***Skill 5: Problem Solving:*** Accurately identify what caused the problem and identify solutions.

**Skill 6: *Put It in Perspective:*** Stop catastrophic thinking, reduce anxiety, and improve problem-solving skills by identifying the worst, best, and most likely outcomes of a situation.

**Skill 7: *Real-time Resilience:*** Shut down counterproductive thinking to enable greater concentration and focus on the task at hand.

**Skill 8: *Character Strengths:*** Identify your top character strengths and those of others and identify ways to use your strengths to increase your effectiveness and strengthen your relationships.

**Skill 9: *Strengths in Challenges:*** Identify the specific actions that flow from your strengths in challenges and in successes.

**Skill 10: *Assertive Communication:*** Communicate clearly and with respect. Use the IDEAL model to communicate in a confident, clear and controlled manner. (I-Identify and understand the problem. D-Describe the problem objectively and accurately. E-Express your concerns and how you feel [when appropriate]. A-Ask others for their perspectives and then ask for reasonable change. L-List the outcomes.)

**Skill 11: *Active Constructive Responding and Praise:*** Respond constructively to others to build strong relationships and use praise to build mastery and winning streaks.

**Skill 12: *Hunt the Good Stuff:*** Look for positive things to counter the negativity bias, to create positive emotion, and to notice and analyze what is good.

U.S. Army, *Strong Minds, Strong Bodies, Resilience, Building Resilient Soldiers, Families and Civilians*, (2012).

Based on the Army's 12 resiliency skills, I propose the following five resiliency skills:

**Resiliency Skill 1: *Activate Your Inner Perry Mason***  
(or *Ally McBeal, Vincent Gambino, Denny Crane or Ellen Parsons*)

Lawyers already collect information and data, examine that material from multiple perspectives using your skills and knowledge, and check for errors in thought processes that might impact your ability to achieve an internal or external client's ultimate goal(s). To enhance resilience, we may use these same skills to examine our thought processes and avoid thinking traps.

Psychologist Albert Ellis is credited with having created the ABCD Model, which helps users identify and understand their reactions to adversity. Based on a belief that thoughts often determine feelings and behavior, this cognitive behavioral model urges users to examine their thought processes. Once thoughts, beliefs and consequences are identified, users of the model dispute those beliefs that are unfounded with evidence

The ABCD Model can be particularly useful in identifying "thinking traps"—black-and-white patterns of thought that tend to emerge especially in periods of stress or anxiety. For example, an exhausted junior lawyer might think, "None of the partners really care about my career development. I'm just another cog in the wheel." Or a senior lawyer might think, "I don't

understand this class of new associates. All of them want to earn big bucks, but none of them is willing to put in the hours.” (I have appended a listing of ten common thinking traps to this handout.)

To help uncover thinking traps, carefully examine your thought processes. Questions that you may use in this examination process include:

*What’s the evidence that supports the conclusion I’ve reached?*  
*Did I clearly express my wants, needs and expectations? Did I ask for information?*  
*How did others and/or circumstances contribute to this situation?*  
*What’s my contribution to this situation?*  
*What can be changed? What can I control?*  
*What is the specific behavior that explains this situation?*

In answering these questions, be aware of deeply held beliefs that contribute to out-of-proportion emotional reactions and evaluate the usefulness of these beliefs. In [The Resilience Factor: 7 Keys to Finding Your Inner Strength and Overcoming Life’s Hurdles](#), psychologists Karen Reivich and Andrew Shatte write, “These deeper motivations and values often drive us and determine how we respond to adversity.... [T]hese underlying beliefs—or icebergs, as we call them—are usually outside our awareness, deep beneath the surface of our consciousness.”

Examples of iceberg beliefs include:

*I should succeed at everything I put my mind to.*  
*People must respect me at all times.*  
*Women should be kind and supportive.*  
*Men shouldn’t let their emotions show.*  
*Failure is a sign of weakness.*  
*I must never give up.*  
*Only weak people can’t solve their own problems.*

Reivich and Shatte maintain that iceberg beliefs impact resiliency in multiple ways. They are often activated at unexpected times, which can lead to out-of-proportion emotions and reactions. These reactions can lead to behaviors, that, although not extreme, are mismatched to the situation. Additionally, iceberg beliefs often become too rigid, which increases the likelihood that certain emotional patterns, including potentially unhelpful ones, are repeated.

While it is often difficult to shut off iceberg beliefs, it is possible to avoid a major Titanic-like collision by spotting the belief. As you become more aware of their icebergs, you will start to understand the basis for past reactions, and most importantly, they you acquire the ability to react to events appropriately moving forward.

To spot your icebergs, think back to the last time you felt your reaction wasn’t commensurate with the event that elicited it. Then ask yourself questions to get to the heart of why you felt the way you did. Reivich and Shatte recommend asking the following “what” questions (why questions often lead to defensive responses) to identify your icebergs:

*What does that mean to me?*  
*What is the most upsetting part of that for me?*  
*What is the worst part of that for me?*

*What does that say about me?  
What's so bad about that?*

## **Resiliency Skill 2: Develop Assertive Communication Skills**

The U.S. Army's Master Resiliency program incorporates the IDEAL Assertive Communication model developed by the University of Pennsylvania's Psychology Department. The model is based on the premise that all assertive communication is confident (*those involved in the communication believe they can address the situation and are composed*), clear (*messages are easy to understand and not exaggerated*) and controlled (*participants "track" each other and modulate their message as necessary*). The model is particularly useful when conflicts or challenges must be addressed.

Key components of the model include:

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|--------------------|----------|---|
| <b>Step One:</b>   | <b>I</b> | Identify and understand the problem.  |
| <b>Step Two:</b>   | <b>D</b> | Describe the problem objectively and accurately.  |
| <b>Step Three:</b> | <b>E</b> | Express your concerns.  |
| <b>Step Four:</b>  | <b>A</b> | Ask the person for his/her perspective and then ask for a reasonable change.                      |
| <b>Step Five</b>   | <b>L</b> | List the positive outcomes that will result should the other person adopt the recommended change. |

Note, the Mayo Clinic has identified assertive communication skills as an important tool that can help individuals control stress and anger and improve coping skills.

In conjunction with assertive communication, everyone working within the firm benefits when individuals regularly provide constructive feedback, including praise.

See separate handout on preparing and conducting difficult conversations.

## **Resiliency Skill 3: Capitalize on Your Strengths**

Every person possesses natural talents. With an investment of time and effort, those talents can be turned into strengths, where near perfect performance regularly occurs. The Gallup StrengthsCenter has quantified that people who play to their natural talents are: six times as likely to be engaged in their job; three times as likely to report having a good quality of life; and are more productive by nearly eight percent.

People who know and work within their talents and encourage members of their work teams to do the same build effective working relationships. They focus less on finding well-rounded individual performers and seek to build well-rounded teams.

#### **Resiliency Skill 4: Take Time to Re-energize**

Many law firms now offer mindfulness training for professionals and staff. While some dismiss these programs as silly, New-Age initiatives that yield no documented benefits and take away from billable work, studies suggest that these efforts can help lawyers better regulate their emotions and energy levels. This can improve critical thinking, enhance performance and build resilience.

Energy management strategies that you may incorporate into your day-to-day work include:

- Mental games
- Controlled breathing
- Progressive muscle relaxation
- Mindfulness exercises
- Positive imagery

#### **Resiliency Skill 5: “**Hunt the Good Stuff**”**

Cognitive psychologists have long noted that our brains are more likely to process and retain, negative information as opposed to positive information. They refer to this phenomenon as a “negativity bias.” As one neuropsychologist has stated, “your brain is like Velcro for negative experiences and Teflon for positive ones.”

Because of this negativity bias, you may find that you naturally focus on negative events, from the frustration or despair that you hear in an internal or external client’s voice to a simple spelling error made by a member of a work team. To develop resiliency, make a conscious effort to notice and focus on positive occurrences, recognize the significance of these events, and undertake efforts to enable and repeat these events.

## Common Thinking Traps

### 1. All-or-nothing thinking

Seeing things in black-and-white categories. If a situation falls short of perfect, you see it as a total failure.

*Example:* When a junior lawyer learned that a series of complicated calculations that he had spent weeks developing had been disregarded by a trial team, he told himself, “No one appreciates how hard I’m working.” This thought upset him so much that he decided to “phone it in” the next day.

### 2. Overgeneralization

Seeing a single negative event, for example, a career bump in the road, as a never-ending pattern of defeat by using words such as “always” or “never.”

*Example:* A document review team member became terribly upset when she discovered most of the practice group’s senior partners had headed to a client reception. She told anyone who would listen, “Why are we always working late while the partners go out and have fun?!?!?”

### 3. Mental filter

Picking out a single negative detail and dwelling on it exclusively, so that your vision of all of reality becomes darkened.

*Example:* After a senior associate participated in a client presentation that was well received, a partner noted that two of the associate’s slides contained too much jargon. The associate obsessed about these comments for days and ignored the positive feedback.

### 4. Discounting the positive

Rejecting positive experiences by insisting that they “don’t count.”

*Example:* Despite receiving positive feedback on recent interactions with a client (“They love it when they see you walk into the office”), a junior lawyer thought, “Anyone could pull off the same performance.” Discounting the positive may leave the paralegal feeling inadequate and unrewarded.

### 5. Jumping to conclusions

Interpreting events negatively when there are no facts to support that conclusion.

**Mind reading:** Without confirming the accuracy of an assessment, an individual arbitrarily concludes that someone is reacting negatively.

Example: *“He interrupts me nonstop just because I’m new”*; and

**Fortune telling:** Predicting that things will turn out badly.

Example: *Before an important meeting with the client’s CEO, a partner thinks, “I can just tell that I’m really going to blow this.”*

## 6. Magnification

Exaggerating the importance of problems and shortcomings or minimizing the importance of the desirable qualities that you bring to the table.

Example: *A lawyer says, “In the history of the legal profession, no one has ever had to deal with a more obnoxious client.”*

## 7. Emotional reasoning

Assuming that your negative emotions necessarily reflect the way things really are.

Example: The partner reports, “I phoned the associate who has headed up the document review. I left several voice-mail messages and didn’t receive a response before close of business. The senior associate just ignored my messages.” *(The partner did not know that the senior associate had left work quickly—and had forgotten to grab his smartphone—after he received a call that his child had been rushed to the emergency room at a local hospital.)*

## 8. “Should” statements

Consistently telling yourself that things should be the way you hoped or expected them to be.

Example: *While assembling a particularly complex leveraged buy-out deal, a partner complained, “This is huge. Everyone should be willing to work 24 hours around-the-clock on this deal.”*

“Should” statements that are directed against self often lead to guilt and frustration. Many people try to motivate themselves with “should” and “shouldn’ts,” for example, “I shouldn’t eat that doughnut,” or “I should only drink club soda at tonight’s closing party.” This self-talk usually proves ineffectual because we naturally rebel against “should” and “musts” and develop an urge to do just the opposite.

## 9. Labeling

Labeling is an extreme form of all-or-nothing thinking. Instead of saying “I made a mistake,” some will say, “I’m a failure.”

Labeling is irrational because human beings are complex, and no one label accurately captures all of our nuances.

Labeling others is equally dangerous. When a colleague does something that rubs you the wrong way, you may tell yourself, “He’s a real pain to work with.” Such thinking encourages you to believe that the problem lies with his/her character instead of with their thinking or behavior. You may see them as totally bad. This makes you feel hostile and hopeless about improving the relationship and leaves little room for constructive communication.

## 10. Personalization and blame

Holding yourself personally responsible for an event that isn’t entirely under your control.

*Example: After a junior partner received an email indicating that his/her child was having difficulties at school, he/she told herself, “This proves that I can’t hold down a job at a busy law firm and be a good parent at the same time.”*

Personalization leads to guilt, shame and feelings of inadequacy. It may also hinder efforts to uncover actual causation.

The opposite—blaming others for problems—can be just as destructive. This type of thinking may cause an individual to overlook his or her contribution to a situation.

*Example: “The only thing the partners are concerned about is the number of hours that they can bill for our work. They couldn’t care less if I turn to meds to stay juiced-up at work.”*

## Colorado Rules of Professional Conduct

### Rule 1.1 – Competence

*A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.*

### Rule 1.3 – Diligence

*A lawyer shall act with reasonable diligence and promptness in representing a client.*

### Rule 1.4 – Communication

*(a) A lawyer shall:*

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;*
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;*
- (3) keep the client reasonably informed about the status of the matter;*
- (4) promptly comply with reasonable requests for information; and*
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.*

*(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.*

### Rule 1.16 – Declining or Terminating Representation

*(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:*

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;*
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or*
- (3) the lawyer is discharged.*

## **Rule 5.1 – Responsibilities of Partners and Supervisory Lawyers**

*(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.*

*(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:*

*(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved;*

*(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.*