

CIVILITY

National District Attorneys Association

SCOTT BURNS

July 23, 2014
Denver, Colorado

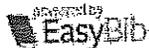
ci·vil·i·ty

noun \sə-ˈvi-lē-tē\

: polite, reasonable, and respectful behavior

civilities : polite actions and words

plural ci·vil·i·ties



Full Definition of **CIVILITY**

1

archaic: training in the humanities

2

a: civilized conduct; *especially*: COURTESY, POLITENESS

b: a polite act or expression

☞ See civility defined for English-language learners »

See civility defined for kids »

Examples of **CIVILITY**

1. They greeted each other with the usual exchange of *civilities*.
2. <after the usual *civilities*, the parents and the principal had a serious talk about the boy>

SCOTT BURNS

Iron County attorney for 16 years, Deputy Drug Czar and Sports Minister at the White House for seven years, Executive Director of NDAA for five years and recently appointed Piute County Prosecutor in Utah. Extremely handsome, intelligent and a Hall of Fame Quarterback at his alma mater, Southern Utah University.

Civility in America 2013: Part 1

Paul Thares – 11/17/2013

- iGrow Home
- Community Development
- Communities

This will be the first of a series of articles on civility and incivility in America.

In 2010 Weber Shandwick and Powell Tate, in partnership with KRC Research, released their first annual Civility in America: A Nationwide Survey to gauge the American public's attitudes toward civility and self-reported experiences with incivility in a variety of areas of American society and daily life. (Weber Shandwick, and Powell Tate, 2013) Weber Shandwick and Powell Tate track these attitudes and experiences annually to determine if these perceptions change overtime.

Civility in America continues to erode and rude behavior is becoming our “new normal,” according to the fourth annual study on, Civility in America: A Nationwide Survey. (Weber Shandwick, and Powell Tate, 2013) No question about it, America has a civility problem.

Each wave of Civility in America reiterates the unfortunate fact that incivility is ubiquitous: no area of American society is untouched. Eroding civility is harmful to our country's future and takes a toll on how we interact with the people and institutions around us. The belief that America has a civility problem and that civility will get worse has not waned since the survey's inception (2010). Americans' experiences with incivility add a noticeably disturbing dimension, particularly as we see the Internet increasingly identified as a cause of incivility. (Weber Shandwick, and Powell Tate, 2013)

Civility is getting worse and most Americans (70%) agree that incivility in America has risen to crisis levels. This belief is held regardless of age, gender, political party affiliation and U. S. Geographical region. (Weber Shandwick, and Powell Tate, 2013) What is even more alarming is that 81% of Americans believe uncivil behavior is leading to an increase in violence.

However, there are a few signs of hope from this year's survey, despite the persistence of incivility in America. More people are willing to take control of incivility in their own lives (50%) said they have ended a friendship because another person was uncivil, which was an increase from 2012 (44%). Perhaps due to the high level of incivility in our life's most Americans (87%) say they would be willing to take a national civility pledge on a national holiday such as July 4th.

Weber Shandwick, and Powell Tate hope that their ongoing research of this critically important issue, civility and incivility, can help to restore civility in public life and bring meaningful and lasting solutions to our ways of interacting and behaving in all aspect of American life.

Incivility has become the default in too many of our interactions and it is affecting the very fabric of society. (Jack Leslie, 2013)

Civility in America 2013: Part 2

Paul Thares – 11/24/2013

- iGrow Home
- Community Development
- Communities

This is the second article in a series on civility in America. This article will look at incivility in America by the numbers.

Incivility Experiences

- 17.1 is the average number of times Americans encounter incivility in a 7 day week, or 2.4 time per day.
- 8.5 is the average number of time Americans encounter incivility in “real life/offline” in a week.
- 8.6 is the average number of time Americans encounter incivility “online” in a week.

Of Americans surveyed...

- 50% have ended a friendship because another person was uncivil.
- 48% have defriended, blocked or hidden someone online because of uncivil behavior.
- 43% expect to experience incivility in the next 24 hours.
- 26% have quite a job because it was an uncivil workplace.
- 24% have personally experienced cyberbullying (threefold increase since 2011).
- 19% of parents have transferred their child to a different school because of incivility at school.

Incivility Perceptions of Americans surveyed...

- 95% believe we have a civility problem in America.
- 87% thing it is uncivil to be on a phone while talking with someone else in person.

- 81% thin uncivil behavior is leading to an increase in violence.
- 80% agree that the level of civility won't improve until our government leader's act more civilly.
- 71% believe civility is worse compared to a few years ago
- 70% think the Internet encourages uncivil behavior
- 70% think that incivility has risen to crisis levels.
- 34% who expect civility to worsen blame Twitter.

Attitudes about the state of civility in America have not changed since 2010. Approximately two-thirds of Americans (63%) believe that we have a major civility problem and seven (7) in 10 believe that civility is worse compared to a few years ago. For the third year in a row, more than half (54%) believe that civility will worsen over the next several years.

"Incivility is turning into a national epidemic. When seven out of ten citizens report that incivility has reached crisis proportions in this country, you know that we need new solutions and greater leadership accountability. We may have reached the tipping point." (Pam Jenkins, 2013)

Reference:

Civility in America 2013: Part 3 Back »

Paul Thares – 12/1/2013

- iGrow Home
- Community Development
- Communities

This is the third article in a series on civility in America. Americans assign negative tone and high levels of incivility to several groups. The government is considered the most uncivil aspect of American life (69%) followed by the American public (63%) and the media (63%). More than half of Americans rate Congressional Republicans, the 2012 presidential elections, online news article comments, schools, large American corporations, Congressional Democrats, You Tube and Facebook as uncivil. In Contrast, Friends, Family and dinner table conversation are perceived as the most civil.

Here is a list of the general tone and level of what Americans believe to be most uncivil and most civil.

	Uncivil	Civil
Government	69%	25%
American public	63%	33%
Media	63%	31%

Republican Congress	60%	31%
2012 Presidential election	59%	33%
Online news article comments	59%	28%
School	56%	37%
Large American corporations	53%	37%
Democrats in Congress	52%	39%
You Tube	50%	29%
Facebook	50%	34%
Blogs	47%	26%
Twitter	44%	23%
Foreign businesses	42%	36%
Fox News	37%	52%
President Obama	35%	58%
MSNBC	33%	49%
CNN	32%	53%
In your community	30%	67%
New Your Times	26%	47%
NBC News	26%	61%
ABC News	25%	62%
Where shop in Community	25%	72%
USA Today	25%	53%
Small American business	24%	66%
CBS News	24%	62%
Your local newspaper	22%	66%
PBS	17%	67%
Friends & Family	14%	82%
Conversation at dinner table	14%	82%

- About one-third (34%) of Americans who expect civility to worsen, blame cellphone/smartphones.

The majority of Americans consider rude cellphone behavior uncivil. These behaviors include using a phone while speaking with someone else (87%) or while having a meal (86%), and talking loudly on a cellphone in public (76%).

FILED

UNITED STATES DISTRICT COURT **JUL 10 2012**
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

CHRISTOPHER KEATING, CIV 04-4208
Plaintiff,

-vs

UNIVERSITY OF SOUTH DAKOTA,
JAMES ABBOTT, ROYCE ENGSTROM,
DONALD DAHLIN, MATTHEW MOEN,
TIMOTHY HEATON, CHRISTINA
KELLER, SOUTH DAKOTA BOARD
OF REGENTS, MIKE ROUNDS, ET. AL

*

On the other hand, I did come to you with my problems and the result was highly unsatisfactory. You came back and insisted that not only did I not have anything to complain about, but everything except the price of corn futures was my fault. We will ignore the fact the two are mutually exclusive. How could I be at fault for everything when you already concluded there was nothing wrong? You and Dr. Keller took this matter out of the department and made it a school-wide problem. You did nothing to address my problems except to tell me that I was essentially not part of the department. You two then threatened me with false charges of sexual harassment and stated in your letter that I had engaged in inappropriate behavior.

I came to you with a problem and you made it infinitely worse. Your actions have caused permanent damage to my relationship with the two of you. There is no way I can trust you with another problem.

I cannot communicate with Dr. Keller because she is a lying (sic), backstabbing sneak. I ask her questions and she will not answer. She learns important information and she withholds it. She keeps a secret file on me that she pulls out to use against me. She then talks badly about me around campus.

NEWS

What Does Civility Mean In Politics? No More Shouting, Ever?

By Susan Campbell, January 18, 2011

Civility is not for weenies. In the wake of the Arizona shootings, political and spiritual leaders are calling for more measured speech. The accused shooter, Jared Lee Loughner, appears to have acted strictly on his own mental illness, not politics. But the national zeitgeist favors a halt to demonizing the Other Guy, particularly in politics. So when does civility end and capitulation begin? Obviously, violence and name-calling are out, but what precisely does civility mean?

NEWS

As New Term Begins, A Call For Civility

By STEPHEN OHLEMACHER; Courant Staff Writer, January 7, 1999

Gov. John G. Rowland issued several calls for civility and bipartisanship on Inauguration Day at the state Capitol. What else, you might ask, would a governor call for when the opposing party controls both chambers of the General Assembly? When you're outnumbered, sometimes it's just best to ask the other side: "Be nice." A pragmatist would say bipartisanship is the only way a Republican governor is going to get anything done when the Democrats control the House by a 96-55 majority, and the Senate by a 19-17 majority.

BUSINESS

For Three Governors, Civility And Brutal Competition

Dan Haar, June 17, 2013

Three governors crisscrossed the state Monday, all looking to bolster their business strength, and no, there won't be a punch line here — other than the knockout that Texas Gov. Rick Perry and South Dakota Gov. Dennis Daugaard are trying to inflict on our own Gov. Dannel P. Malloy. It was a day for the high art of political civility, which is to say, brutal competition barely masked. From the way these red-state dignitaries were talking, it's lights-out time in Connecticut. You'd think the cost of doing business, in dollars, is the whole ballgame.

NEWS

Civility In Political Debate Remains An Elusive Goal

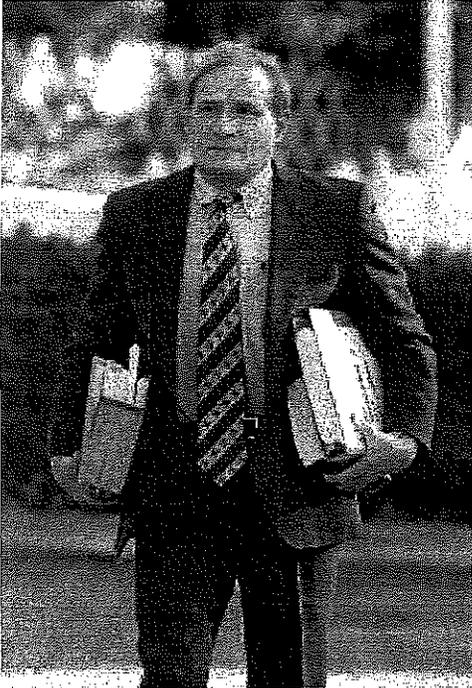
By DAVID LIGHTMAN; Washington Bureau Chief, December 25, 1996

On one level, there's a strong movement afoot to restore civility to American life, especially political life. The effort is being led by two of Washington's tarest tongues, Rep. Patricia Schroeder, D-Colo., and former Education Secretary William Bennett, a Republican. But on another level, uncivil wars continue to rage. Almost as soon as a House ethics subcommittee reported Saturday that House Speaker Newt Gingrich, R-Ga., had violated House rules, Democrats began howling.

Judge holds prosecutor in contempt; Yuknavich theft case on hold

BY BOB KALINOWSKI (STAFF WRITER)

Published: February 14, 2013



Melnick

The drama was rapid fire - a prosecutor ordered to jail, a judge's ethics questioned and a big criminal case placed in jeopardy.

Simmering tensions between Luzerne County Judge Joe Sklarosky Jr. and lead prosecutor Michael Melnick peaked Wednesday, forcing an indefinite delay in the theft case against Wilkes-Barre Township fire Chief John Yuknavich.

During more tense back-and-forth Wednesday, Melnick demanded Sklarosky be removed from the case for recently dining with Yuknavich's defense attorney, Barry Dyller. The judge denied Melnick's recusal motion, saying the dinner party included 12 people and the case wasn't discussed.

Minutes later, Sklarosky followed through with a warning he gave a day earlier and held Melnick in contempt of court as they argued over evidence. The judge ordered Melnick to jail, but immediately stayed the order, pending an appeal.

SOUTH DAKOTA RULES OF PROFESSIONAL RESPONSIBILITY

Rule 3.5. Impartiality and Decorum of the Tribunal.

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;
- (b) communicate ex parte on the merits with such a person during the proceeding unless authorized to do so by law or court order;
- (c) communicate with a juror or prospective juror after discharge of the jury if:
 - (1) the communication is prohibited by law or court order;
 - (2) the juror has made known to the lawyer a desire not to communicate; or
 - (3) the communication involves misrepresentation, coercion, duress or harassment; or
- (d) engage in conduct intended to disrupt the tribunal

COMMENT:

[1] Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the South Dakota Code of Judicial Conduct with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of such provisions. See Appendix, Chapter 16-2.

[2] During a proceeding a lawyer may not communicate ex parte with persons serving in an official capacity in the proceeding, such as judges, masters or jurors, unless authorized to do so by law or court order.

[3] A lawyer may on occasion want to communicate with a juror or prospective juror after the jury has been discharged. The lawyer may do so unless the communication is prohibited by law or a court order but must respect the desire of the juror not to talk with the lawyer. The lawyer may not engage in improper conduct during the communication.

[4] The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.

[5] The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition. See Rule 1.0(m).

NEW YORK STANDARDS OF CIVILITY

Preamble

The New York State Standards of Civility for the legal profession set forth principles of behavior to which the bar, the bench and court employees should aspire. They are not intended as rules to be enforced by sanction or disciplinary action, nor are they intended to supplement or modify the Rules Governing Judicial Conduct, the Code of Professional Responsibility and its Disciplinary Rules, or any other applicable rule or requirement governing conduct. Instead they are a set of guidelines intended to encourage lawyers, judges and court personnel to observe principles of civility and decorum, and to confirm the legal profession's rightful status as an honorable and respected profession where courtesy and civility are observed as a matter of course. The Standards are divided into four parts: lawyers' duties to other lawyers, litigants and witnesses; lawyers' duties to the court and court personnel; court's duties to lawyers, parties and witnesses; and court personnel's duties to lawyers and litigants.

As lawyers, judges and court employees, we are all essential participants in the judicial process. That process cannot work effectively to serve the public unless we first treat each other with courtesy, respect and civility.

LAWYERS' DUTIES TO OTHER LAWYERS, LITIGANTS AND WITNESSES

I. Lawyers should be courteous and civil in all professional dealings with other persons.

- A. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.
- B. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.
- C. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.

II. When consistent with their clients' interests, lawyers should cooperate with opposing counsel in an effort to avoid litigation and to resolve litigation that has already commenced.

- A. Lawyers should avoid unnecessary motion practice or other judicial intervention by negotiating and agreeing with other counsel whenever it is practicable to do so.
- B. Lawyers should allow themselves sufficient time to resolve any dispute or disagreement by communicating with one another and imposing reasonable and meaningful deadlines in light of the nature and status of the case.

III. A lawyer should respect the schedule and commitments of opposing counsel, consistent with protection of the client's interests.

A. In the absence of a court order, a lawyer should agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of the client will not be adversely affected.

B. Upon request coupled with the simple representation by counsel that more time is required, the first request for an extension to respond to pleadings ordinarily should be granted as a matter of courtesy.

C. A lawyer should not attach unfair or extraneous conditions to extensions of time. A lawyer is entitled to impose conditions appropriate to preserve rights that an extension might otherwise jeopardize, and may request, but should not unreasonably insist on, reciprocal scheduling concessions.

D. A lawyer should endeavor to consult with other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts. A lawyer should likewise cooperate with opposing counsel when scheduling changes are requested, provided the interests of his or her client will not be jeopardized.

E. A lawyer should notify other counsel and, if appropriate, the court or other persons at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.

IV. A lawyer should promptly return telephone calls and answer correspondence reasonably requiring a response.

V. The timing and manner of service of papers should not be designed to cause disadvantage to the party receiving the papers.

A. Papers should not be served in a manner designed to take advantage of an opponent's known absence from the office.

B. Papers should not be served at a time or in a manner designed to inconvenience an adversary.

C. Unless specifically authorized by law or rule, a lawyer should not submit papers to the court without serving copies of all such papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the court.

VI. A lawyer should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.

A. A lawyer should avoid discovery that is not necessary to obtain facts or perpetuate testimony or that is designed to place an undue burden or expense on a party.

B. A lawyer should respond to discovery requests reasonably and not strain to interpret the request so as to avoid disclosure of relevant and non-privileged information.

VII. In depositions and other proceedings, and in negotiations, lawyers should conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.

A. Lawyers should not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

B. Lawyers should advise their clients and witnesses of the proper conduct expected of them in court, at depositions and at conferences, and, to the best of their ability, prevent clients and witnesses from causing disorder or disruption.

C. A lawyer should not obstruct questioning during a deposition or object to deposition questions unless necessary.

D. Lawyers should ask only those questions they reasonably believe are necessary for the prosecution or defense of an action. Lawyers should refrain from asking repetitive or argumentative questions and from making self-serving statements.

VIII. A lawyer should adhere to all express promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.

IX. Lawyers should not mislead other persons involved in the litigation process.

A. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

B. A lawyer should not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

C. In preparing written versions of agreements and court orders, a lawyer should attempt to correctly reflect the agreement of the parties or the direction of the court.

X. Lawyers should be mindful of the need to protect the standing of the legal profession in the eyes of the public. Accordingly, lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate.

LAWYERS' DUTIES TO THE COURT AND COURT PERSONNEL

I. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.