

# CHANGE

## Stand Up to Incivility

By Susan T. Nold



### 1. As Texas lawyers, we take an oath of civility.

The State Bar of Texas requires all new lawyers to take this oath:

I do solemnly swear that I will support the Constitutions of the United States, and of this State; that I will honestly demean myself in the practice of law; that I will discharge my duties to my clients to the best of my ability; and, that I will conduct myself with integrity and civility in dealing and communicating with the court and all parties. So help me God.<sup>1</sup>

I know this oath well. In 2015, when I worked as General Counsel for then-State Senator Kirk Watson, he passed a bill modifying the Texas Lawyer's Oath to specifically call for civility in attorneys' dealings with the courts and various parties. Texas lawyers, we thought, could be a model for other professionals to follow ... possibly even those in political office.

I've been thinking about civility a lot lately, wondering how many of our nation's ills it could solve — and whether the toxicity of our politics renders such hopes obsolete. Watching through fearful tears in January as a mob stormed the Capitol, the thought that civility could cure what ails us seemed tragically quaint.

### 2. Incivility is a serious problem in our political system.

What is civility's value? What role does civility play in this time of wrenching division, anger, violence and, now, insurrection?

Put another way, why bother with it at all?

We can start to answer that by looking at the consequences of its absence. A decade of research shows that the rise of political incivility has been linked with reduced trust, less-reasoned discussion, increased polarization, greater difficulty reaching bipartisan compromise, and worse government gridlock. About eight in ten Americans believe the lack of civil discourse in our political system is a serious problem, according to the Public Religion Research Institute.<sup>2</sup> About as many stop paying attention to what a candidate is saying — they mentally drop out — when they see a particularly nasty ad.

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But if most people react similarly to the incivility they see, they also agree that the other side — whichever that is — is to blame. A 2013 study found that political and media figures who share someone's political views are perceived as less uncivil than the other side.<sup>3</sup> They need to behave better, they need to show some decency and responsibility.

Unfortunately, this reaction often just inflames the argument and furthers the sense of partisan division and disdain. That, for a democracy, is a poisonous cycle.

### **3. Civility constitutes respect for others, not a lack of conviction.**

Peter Wehner, in his book *The Death of Politics*, argues that civility is central to citizenship — “the precondition, not the product of respect for others.”<sup>4</sup> He argues we must not confuse civility with a lack of conviction or passion<sup>5</sup> — surely Texas lawyers who take an oath to civility understand the difference.

“What civility makes possible is a certain mode of discourse, particularly when it comes to debates and disagreements with our fellow citizens,” Wehner writes. “It assumes that in most cases — absent fairly extraordinary exceptions — basic good manners are what we owe others as fellow citizens and fellow human beings, even those with whom we have passionate disagreements.”<sup>6</sup>

### **4. We need to have common definitions of personal-level incivility and public-level incivility.**

A few years ago, the Texas Lyceum devoted an entire meeting to the topic of political incivility.<sup>7</sup> The Annette Strauss Institute for Civic Life — an institute I'm proud to direct in the Moody College of Communication at The University of Texas at Austin — put together a pamphlet<sup>8</sup> that summarized research from leading experts like Dr. Ashley Muddiman, Dr. Gina Masullo, and Dr. Talia Stroud. Muddiman's work, in particular, offers another challenge in studying incivility: it lacks a common definition because it takes different forms.<sup>9</sup>

Muddiman defines personal-level incivility as impoliteness, profanity, personal attacks, and rudeness — what we witness at the grocery store, on the highway, and so often on social media.<sup>10</sup> While the stakes here may seem like the lowest, research suggests most people find this form of incivility to be the most offensive.<sup>11</sup>

Public-level incivility describes a different category. Muddiman suggests this accounts for a large variety of behavior that violates or ignores longstanding democratic norms such as abandoning debate and deliberation, failing to recognize a counterargument as legitimate, spreading misinformation, or abandoning long-standing rules of process and procedure.<sup>12</sup>

Both are destructive. They fuel partisan divisions and degrade the quality of democratic discourse and deliberation. And in an era of heightened polarization, both are viewed differently when it's the other side committing the offense.

Research shows that both Republicans *and* Democrats see members of their own political party as more civil, and both react more strongly to incivility when it comes from a member of the other party.<sup>13</sup>

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Ridding politics of political incivility is a herculean effort, but the future of our democracy requires that we try.

### **5. We should call out personal-level and public-level incivility equally.**

First, we need to recognize that there are different kinds of incivility, and we should call them out equally. It's inappropriate when a co-worker or family member is needlessly rude to someone or resorts to name-calling. It's also inappropriate when someone from your political party dismisses the other side, abandons longstanding procedure, spreads misinformation, or abandons opportunities for deliberation or debate.

### **6. We should call out incivility within our own institutions and political parties.**

Second, it is important to call out incivility within our own institutions and political parties. That is not necessarily easy; our friends don't always react well when we push back with another perspective, particularly in politics as the animosity among political partisans is heightened and increasingly personal.<sup>14</sup> And polls show our nation is more polarized than it's been since the invention of polls.<sup>15</sup> Just as incivility prevents conversation, civility encourages it, and the country benefits from it. Acting for the good of the country — even, or especially, when it is not in your own self-interest — is the very definition of patriotism.

### **7. Our elected leaders should amend their own oaths of office to include civility, like the Texas Lawyer's Oath.**

Finally, our elected leaders should follow the example of Texas lawyers — they should amend their own oaths of office to place civility among their standards of conduct. In doing this, Texas lawyers set an important example of how to hold themselves, and their profession, to a higher standard.

As a proud Texas lawyer, I know that people in our profession are as important as they have ever been. We can do so much to preserve, protect, and defend our democracy. It gives me great hope to know we will do so with a commitment to civility.

It's not just what we do, but how we go about doing it, that matters. I hope others will follow our lead.

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<sup>1</sup> "Texas Lawyer's Oath" (available at [https://www.texasbar.com/AM/Template.cfm?Section=Common\\_Lawyer\\_Requests1&Template=/CM/ContentDisplay.cfm&ContentID=29062](https://www.texasbar.com/AM/Template.cfm?Section=Common_Lawyer_Requests1&Template=/CM/ContentDisplay.cfm&ContentID=29062)) (last visited Feb. 25, 2021).

<sup>2</sup> See Public Religion Research Institute, "Even Before Arizona Shootings, Majority of Americans Saw Lack of Civility as a Serious Problem" (Jan. 14, 2011) (available at <https://www.pri.org/spotlight/lack-of-civility/>) (last visited Feb. 26, 2021).

<sup>3</sup> See Ashley Muddiman, "Instability of Incivility: How News Frames and Citizen Perception Shape Conflict in U.S. Politics" at 2 (2013) (available at [https://moody.utexas.edu/sites/default/files/sites/communication.utexas.edu/files/attachments/strauss/Muddiman\\_Results.pdf](https://moody.utexas.edu/sites/default/files/sites/communication.utexas.edu/files/attachments/strauss/Muddiman_Results.pdf)) (last visited Feb. 26, 2021) (hereinafter, "Muddiman").

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<sup>4</sup> Peter Wehner, *The Death of Politics: How to Heal our Frayed Republic After Trump* at 162 (2019, HarperCollins).

<sup>5</sup> See *id.* at 163.

<sup>6</sup> *Id.*

<sup>7</sup> See "The Texas Lyceum - Is Civility Lost? – Washington 2017" (available at <https://vimeo.com/366870271>) (last visited Feb. 26, 2021).

<sup>8</sup> See Moody College of Communication, The University of Texas at Austin, "Civility and U.S. Political Discourse" (available at [https://live-moody.pantheonsite.io/sites/default/files/PoliticalDiscourse\\_infograph2017.pdf](https://live-moody.pantheonsite.io/sites/default/files/PoliticalDiscourse_infograph2017.pdf)) (last visited Feb. 26, 2021).

<sup>9</sup> See R. Stryker, B. A. Conway & J.T. Danielson, "What is Political Incivility?" *Communication Monographs*, Vol. 83(4) at 535-556 (2016) (available at <https://doi.org/10.1080/03637751.2016.1201207> (paywall)) (last visited Feb. 26, 2021).

<sup>10</sup> See Muddiman at 1.

<sup>11</sup> See *id.* at 2.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

<sup>15</sup> See Pew Research Center, "Partisan Antipathy: More Intense, More Personal," (Oct. 10, 2019) (available at <https://www.pewresearch.org/politics/2019/10/10/partisan-antipathy-more-intense-more-personal/>) (last visited Feb. 26, 2021).

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The **Louise B. Raggio Award for ongoing contributions** honors attorneys and legal associations that further justice in our society, particularly for women. More information about this award for **ongoing contributions** is available [here](#).

**Please submit a nomination letter/statement and the nominee's resume to [sbotwomenandthelaw@gmail.com](mailto:sbotwomenandthelaw@gmail.com) by Friday, April 23.**

We look forward to hearing about the women who inspire you!