

Bench & Bar

The newsletter of the Illinois State Bar Association's Bench & Bar Section

Chair's column: On honesty

BY JUSTICE MICHAEL B. HYMAN

For months now the subject of honesty has been a contentious topic in the presidential sweepstakes. It has gotten pretty ugly to watch. Of course, the public's loss of faith in the honesty of its public servants and public institutions is nothing new. What might be new, though, is how honesty has become a matter of greater public debate.

For members of the legal profession honesty is central to all that we do. Professionalism demands it. Every code of conduct emphasizes it. The law and the legal system rely on it. As Northwestern Law School Professor Steven Lubet wrote in *The Importance of Being Honest*, "Without basic honesty, our entire judicial system—with its structure of rights, autonomy, due process, and the rule of

law—would collapse because we could not rely on the good faith of the human beings who administer it."

The legal profession, though, has long suffered from the perception that lawyers cannot be trusted. Many lawyers feel exactly that same way too. This general attitude towards honesty in the legal profession may be summed up in Latin proverb, "Honesty is praised, but it starves."

Honesty is a state of mind. I believe that state of mind depends on one's upbringing, personality, moral and spiritual values, competency, aversion to risk, and self-image. Lawyers regularly face choices that test their honesty; lawyers also regularly endure the challenges of dealing with less than honest opponents.

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(Notice to librarians: The following issues were published in Volume 46 of this newsletter during the fiscal year ending June 30, 2016: July, No. 1; September, No. 2; October, No. 3; December, No. 4; January, No. 5; February, No. 6; April, No. 7; May, No. 8; June, No. 9).

Courthouse professionalism: Not just for judges and lawyers

BY JUDGE DEBRA B. WALKER AND JAYNE R. REARDON

For those of you who work in a courthouse or go to court on a regular basis: have you ever stopped to consider the administration of justice from the perspective of an average person visiting the courthouse for the first time? Perhaps

someone visits to file a name change petition or deal with a traffic ticket, perhaps they are subpoenaed to be a witness or attend a hearing with their attorney. Whatever the reason for the

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Is the clash between honesty and advocacy an occupational hazard? I hope not, but the frequency and facility with which lawyers surrender their honesty for advantage has made plenty of fodder for ridicule and disdain of lawyers. It also accounts for plenty of heated squabbles between lawyers.

Just an instant of bad judgment, an isolated incident, can compromise an otherwise solid career. Some lawyers make a habit of dishonesty. But, the more someone lies, the more likely he or she will be caught. Eventually, the truth comes out and those who treat dishonesty as a fine art are exposed. And there are consequences. Once exposed as dishonest, trust vanishes, credibility vanishes, respect vanishes. A reputation for dishonesty may never be put to rest; repair is next to impossible. Word usually gets around.

The downside, though, doesn't seem to deter or bother the lawyers who eschew honesty. They may rationalize their behavior as a display of client loyalty or zealous advocacy or something "everybody" does. But they are gravely mistaken. "Honest" or "dishonest" appears in one form or another in the Illinois Code of Professional Responsibility a total of 13 times. I urge you to look them up.

Any lawyer indifferent to honesty need only recall the oft-repeated words of "Honest Abe." In his famous lecture to law students, Lincoln noted that the public has an "almost universal" impression that lawyers are dishonest. To this Lincoln responded, "Resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

Another lawyer who was scrupulously honest, Mahatma Gandhi, went to extreme lengths to ensure no one would ever doubt his honesty. Once, in a jail that did not allow prisoners to receive newspapers or news of the outside world, Gandhi was

visited by a doctor. The doctor wanted Gandhi to know that his protest was having a positive effect. Although the doctor knew the prison rules and knew Gandhi's penchant for honesty, he brought along a newspaper and placed it on the cell's cot. When he and Gandhi finished their conversation, the doctor left behind the newspaper. Gandhi, however, did not want to break the rule by even looking in the direction of the cot. Instead, all night, Gandhi faced a corner of his cell to avoid seeing the newspaper. The next morning, the doctor returned. "I am sorry," said the doctor, "but I left my newspaper here by mistake." Gandhi smiled, "Yes, you sentenced me to spend the whole night in a corner!"

Few lawyers have the discipline or character of a Gandhi. But, Gandhi's and Lincoln's example should be a personal guide. Lawyers should embrace honesty as an inviolate obligation. Lawyers should be noble and honorable; let others choose the low road. Each of us is ultimately responsible for what we do.

Again, Professor Lubet, "It is important to be honest, but that does not mean it is easy." ■



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Bench & Bar

Published at least four times per year.
Annual subscription rates for ISBA
members: \$25.

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visit, the process and language of the business conducted in our courthouses can be bewildering and intimidating to the uninitiated.

That is why the Illinois Supreme Court Commission on Professionalism developed a courthouse cross-disciplinary professionalism training. The program brings together representatives from every type of person who works in the courthouse, challenging them to consider ways they can increase their professionalism and service to those who access our judicial system.

The Courthouse Cross-Disciplinary Training

In 2015, the Commission traveled to the 14th Judicial Circuit in Rock Island and the 8th Judicial Circuit in Quincy to facilitate cross-disciplinary trainings to groups of law and law-related professionals including judges, attorneys, court reporters, bailiffs, correctional officers, deputies, circuit clerks, and other court personnel. The program, “Professionalism: Perspectives and Perceptions,” was the Commission’s first offering as a newly accredited CLE provider.

On June 9, 2016, the Commission conducted this training at the DuPage County courthouse. Plans are in the works for trainings in Cook, Lake, Madison, and Sangamon counties as well. As Chair and Executive Director of the Commission, we are gratified that more and more jurisdictions are requesting that we plan such training.

Preparing for the Cross-Disciplinary Training

In preparation for the course, Commission staff meets with a team of court personnel, including clerks, court reporters, sheriffs, lawyers and judges hand-picked by the Chief Judge. This team coordinates planning of the program to make sure the program resonates with each circuit’s unique legal community. The team identifies professionalism issues—both

positive and negative—that have arisen in circuit courthouses. These issues frame the course development. For example, a positive example received was standing when a judge enters or leaves a courtroom and a negative example was staff being gruff or dismissive to pro se litigants who may appear in a courtroom asking to see a judge even though their case is not scheduled to be heard that day.

With these issues in mind, the Commission drafts a skit portraying a parody of unprofessional behavior at a generic court call. The roles are assigned to give members of the court community a different perspective than they normally have, e.g., the judge could be played by a clerk, a lawyer could be played by a sheriff, etc. The local legal community enjoys the comedy of the role assignments.

The Day-Of Experience

The day of the training opens with a short pre-program survey and an overview of the work of the courts. The skit follows, gaining a lot of laughs and serving as an ice breaker and jumping off point for dialogue during the training.

Following the skit, the Commission, through its commissioners and staff, presents information on how to develop better listening skills and the challenges of multigenerational communication.

After the presentation, attendees are split into smaller pre-determined groups, each containing representatives from various departments in the courts. There, the small group participants are guided through a facilitated discussion about identifying and addressing the professionalism issues in their respective courthouses or areas of work.

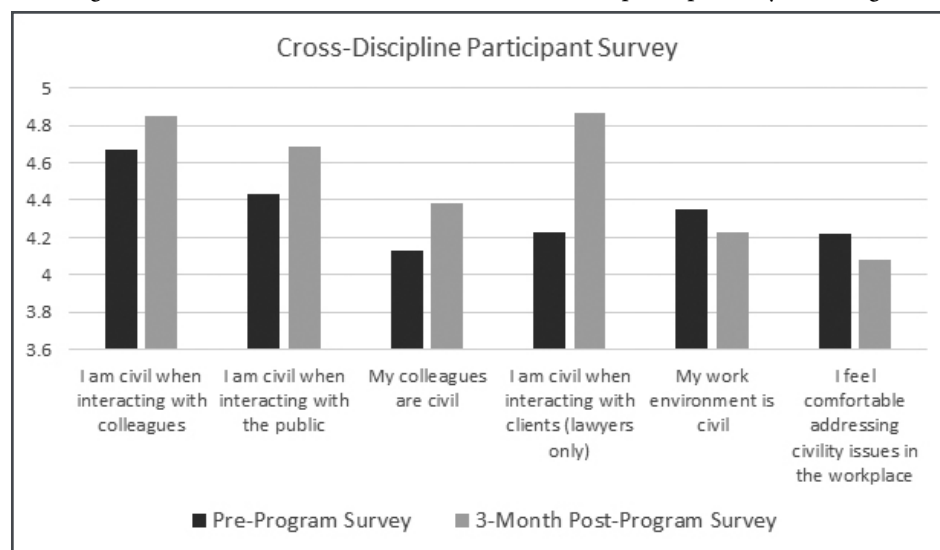
Participants then gather together for a large group de-brief in which each of the small groups shares the issues they identified and their ideas for improvements. The final activity asks each participant to write down their response to the following: “What I learned today that I want to incorporate into my workday beginning Monday (or next workday). . .”

Does the Cross-Disciplinary Training Work?

Three months after we did the training in the 8th Judicial Circuit, we asked participating lawyers the same questions they received at the start of the training.

Below is a graph comparing the responses.

As you can see, feedback was very positive. It demonstrates the utility of programs like this to improve the professionalism of our courthouses and enhance the communication between courthouse participants. By involving all



BENCH & BAR

ILLINOIS BAR CENTER
SPRINGFIELD, ILLINOIS 62701-1779

JULY 2016

VOL. 47 NO. 1

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personnel who work in the court system, we can reach the ultimate goal of bettering the customer experience of court patrons. An ancillary goal is to improve civility and empathy in our judicial workplaces. Moreover the program fulfills the purpose of the Commission, “to promote among the lawyers and judges of Illinois principles of integrity, professionalism and civility” as well as to work to eliminate bias in the legal and judicial systems and to ensure that those systems provide equitable, effective and efficient resolution of problems and disputes for the people of Illinois.

After one of our sessions, we overheard a clerk say to her judge, “Judge, I just want to say that I never thought about my job this way before. I am going to do better.” Wow. That’s what it is all about.

The Commission will continue to facilitate this program with judicial circuits throughout Illinois. Contact us at 312.363.6210 if you want to learn more about the program or find out if your circuit will be doing a program in the near future. ■

Recent appointments and retirements

1. Pursuant to its Constitutional authority, the Supreme Court has appointed the following to be Circuit Judge:

- Clare J. Quish, Cook County Circuit, June 28, 2016
- Hon. Robin D. Shoffner, Cook County Circuit, 8th Subcircuit, July 1, 2016 ■




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