



Civility as a Strategy for Success; More than “Playing Nice”

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Illinois Supreme Court Commission on Professionalism

Objectives

- 1. Consider civility as strategy of success in representing clients**
- 2. Consider civility as cornerstone of success in our profession**
 - a. Related to diversity and inclusion**
 - b. Related to trust and confidence of the public**
- 3. Learn communication skills that foster civility and inclusion**

Interactive Activities

1. On your phone or tablet, go to www.slido.com or scan the QR code with your phone camera



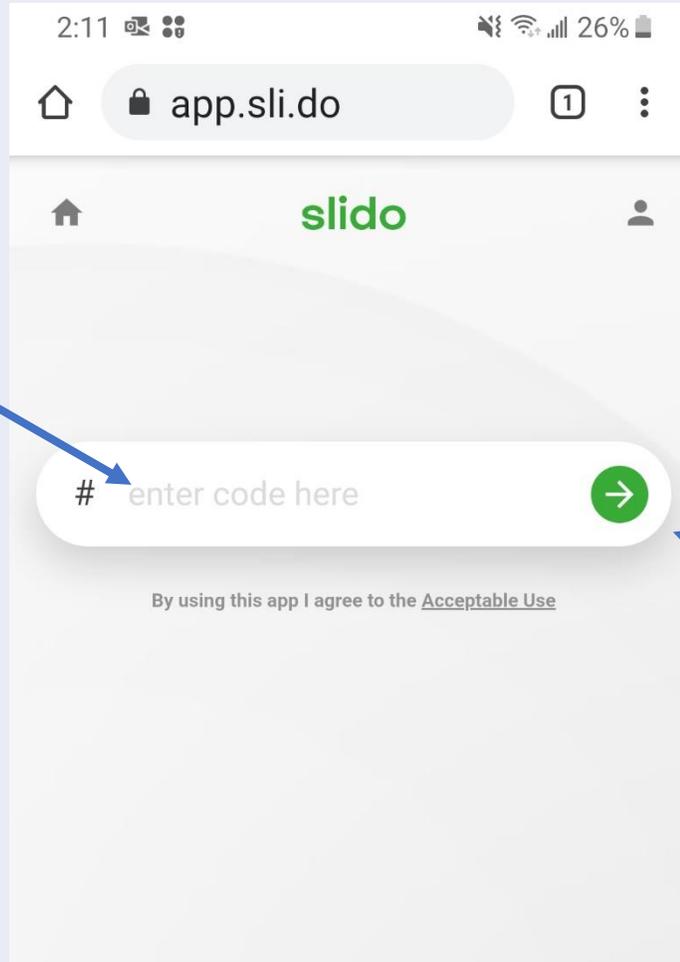
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www.slido.com

Interactive Activities

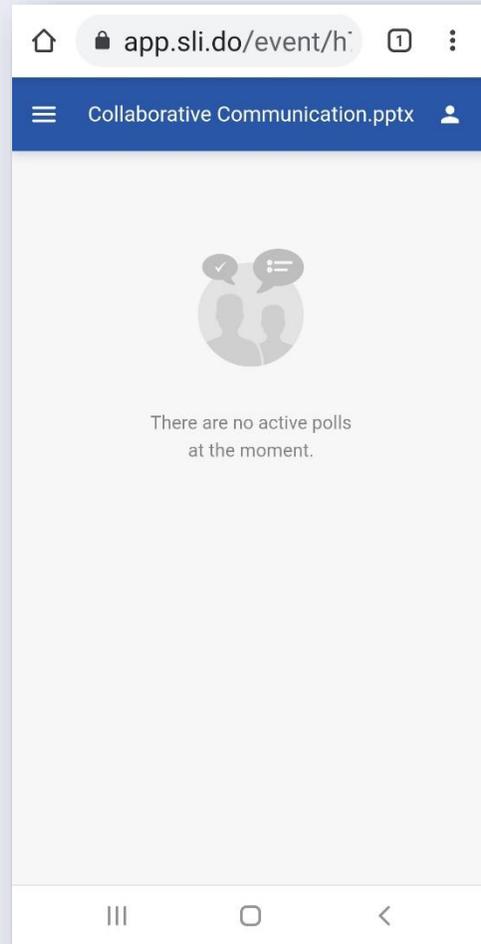
2. On the Slido website, enter in **484002** in the participant box at the top



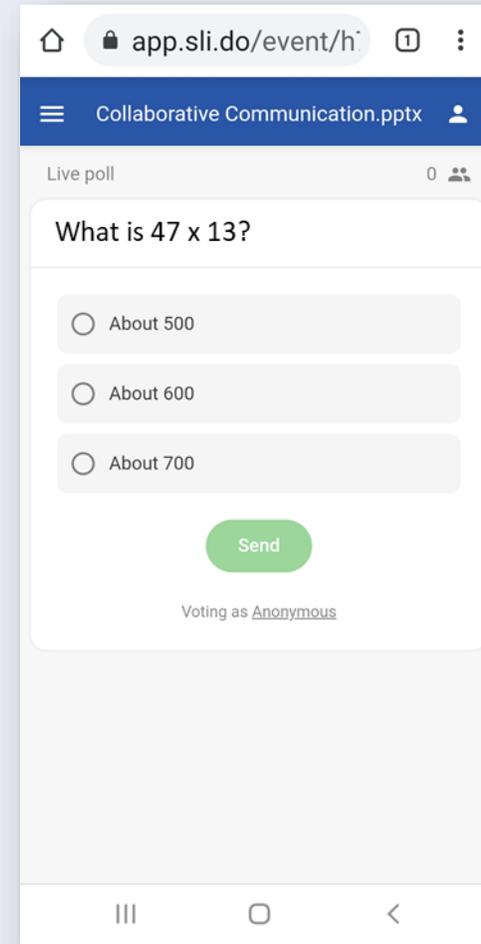
3. Then tap the green arrow

Interactive Activities

Home Page



Poll Screen



Zealous vs Uncivil



Nothing in the
RPCs contemplates *zealous*
as meaning discourteous or
disrespectful

Preamble

- **"a lawyer zealously asserts the client's position under the rules of the adversary system." [2]**
- **A lawyer should "use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials." [5]**

Impressions Determine Outcomes



- **Focus on which behaviors and attitudes are likely to favorably influence decision-maker**
- **Be aware of System 1 vs System 2 thinking**

STANDARDS FOR PROFESSIONAL CONDUCT
WITHIN THE SEVENTH FEDERAL JUDICIAL CIRCUIT

- [Preamble](#)
- [Lawyers' Duties to the Court](#)
- [Judges' Duties to Each Other](#)
- [Lawyers' Duties to Other Counsel](#)
- [Courts' Duties to Lawyers](#)

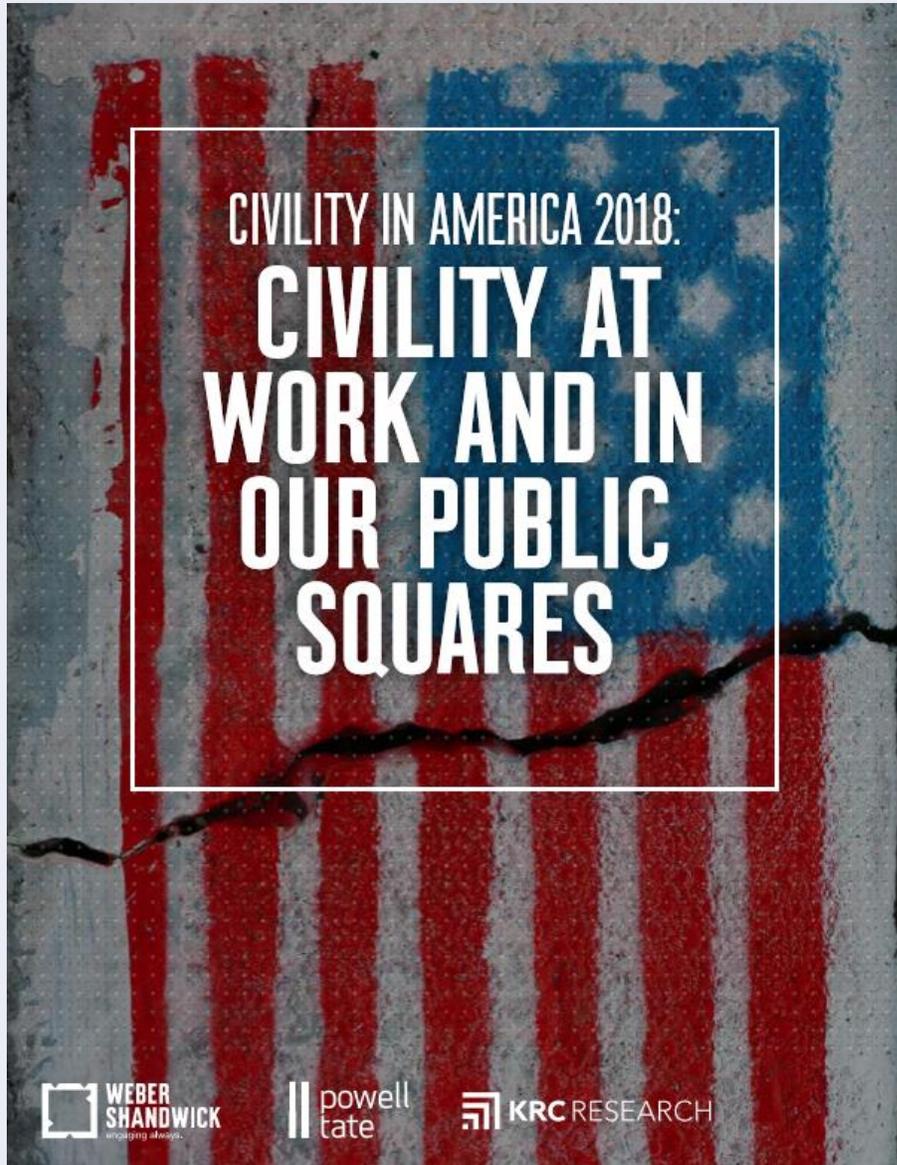
A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe to all participants in a legal proceeding respect, diligence, punctuality, and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.

The following standards are designed to encourage us, judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

Civility in America



92%

Civility is important to our democracy

93%

Civility is a problem in our society

75%

Incivility has reached crisis levels

Incivility disproportionately affects women and diverse populations.

How Attorneys Experience Unprofessional Behavior

Prejudice

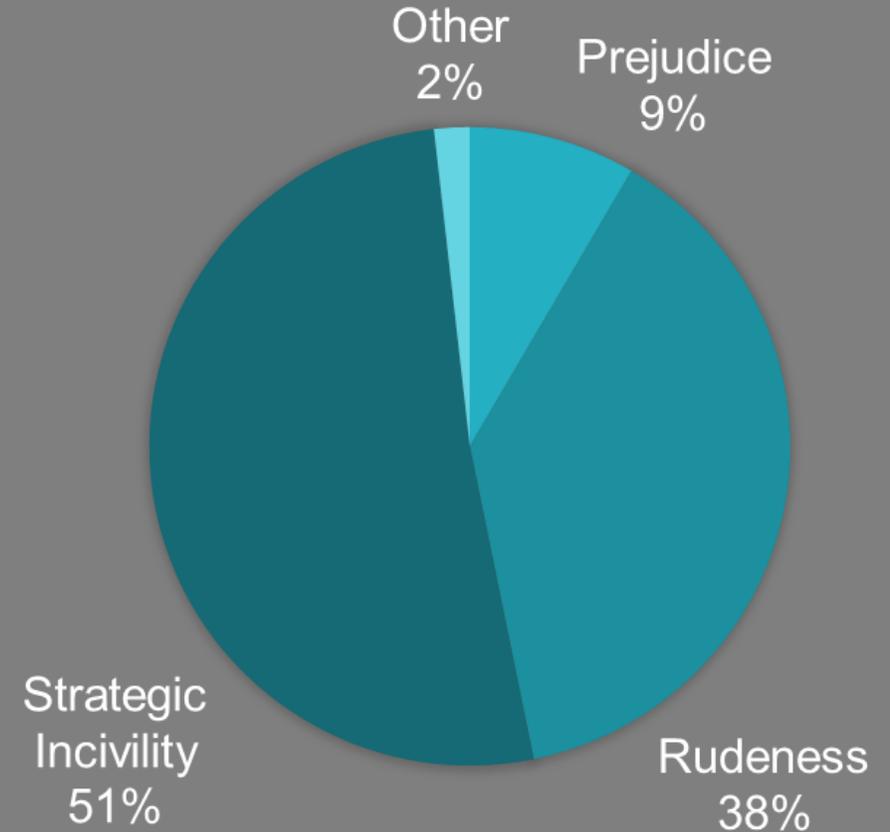
- Inappropriate comments about age / experience
- Racially or culturally insensitive comments
- Sexist comments

Rudeness

- Inappropriate interruptions of others
- Sarcastic or condescending attitude
- Inappropriate language or verbal abuse

Strategic Incivility

- Playing hardball
- Inflammatory writing
- Misrepresenting facts or negotiating in bad faith
- Indiscriminate use of drafts

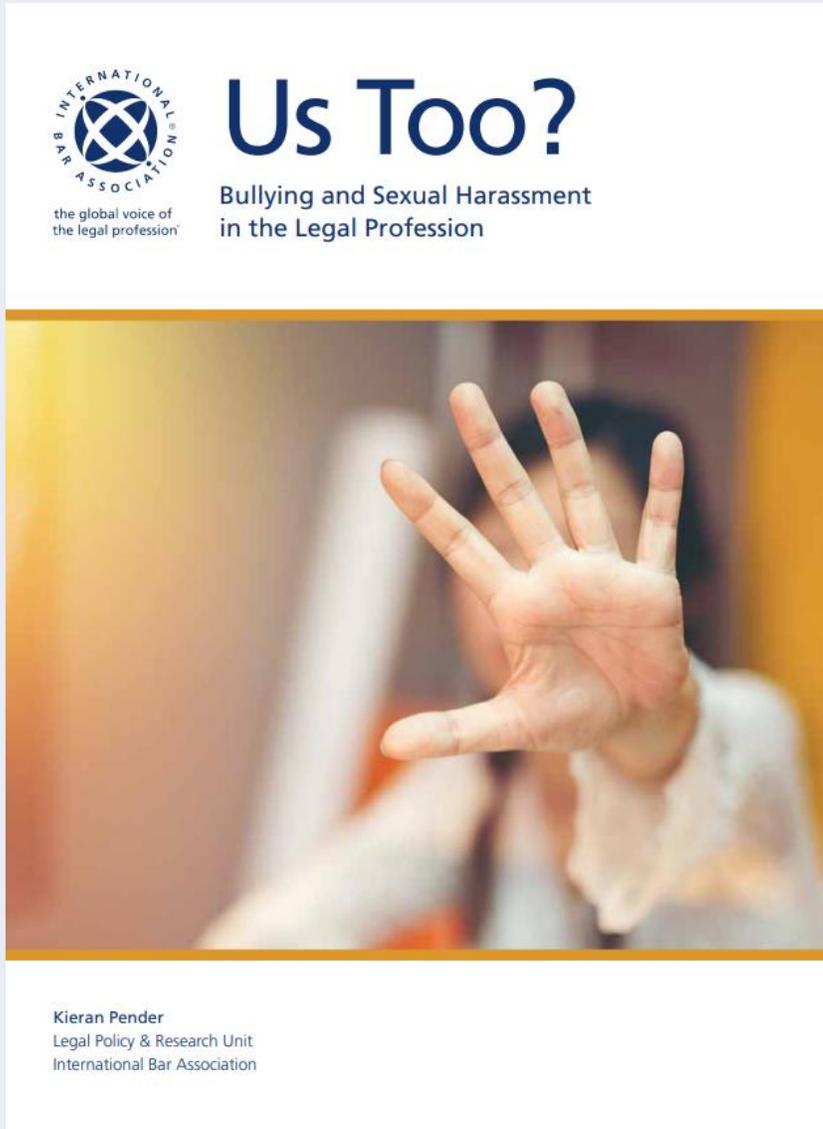


2014 Survey of Illinois Lawyers

In our survey, an overwhelming majority of Illinois lawyers acknowledge that the consequences of incivility include:

- **Makes it more difficult to resolve a matter (94%)**
- **Makes practice of law less satisfying (92%)**
- **Harms public confidence in judicial system (91%)**
- **Leads to increased litigation costs (89%)**
- **Tends to prolong discovery / negotiations (88%)**
- **Discourages diversity in the profession (51%)**

International Bar Association Report

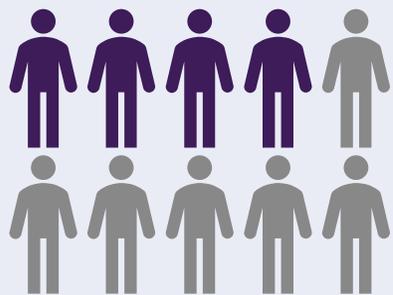


Nearly 7,000 respondents from

- law firms
- in-house
- government
- judiciary

The Numbers – Bullying

Have you been bullied in your career?



38%



63%

Have you witnessed bullying?



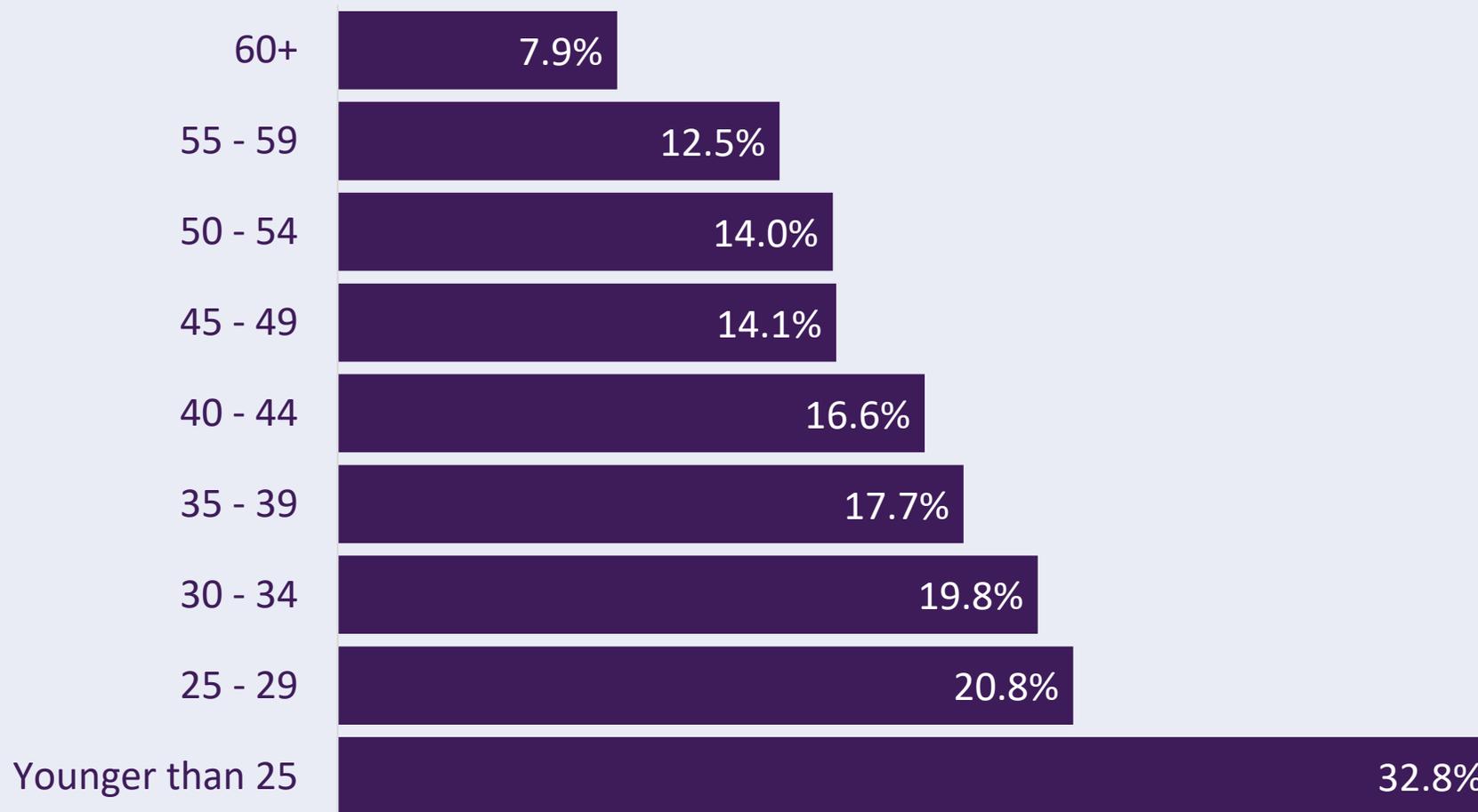
40%



32%

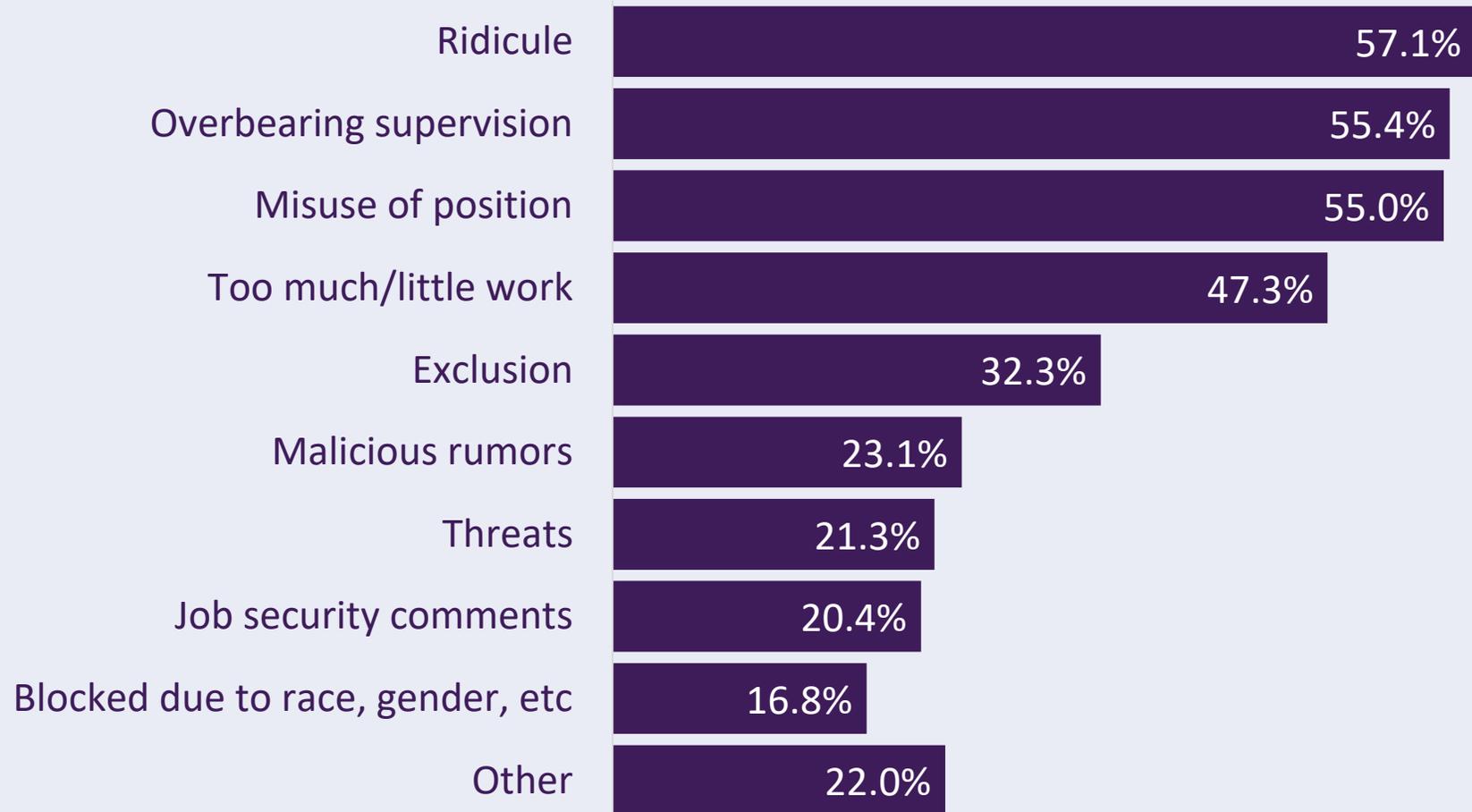
The Numbers – Bullying

Bullying by Age within past year



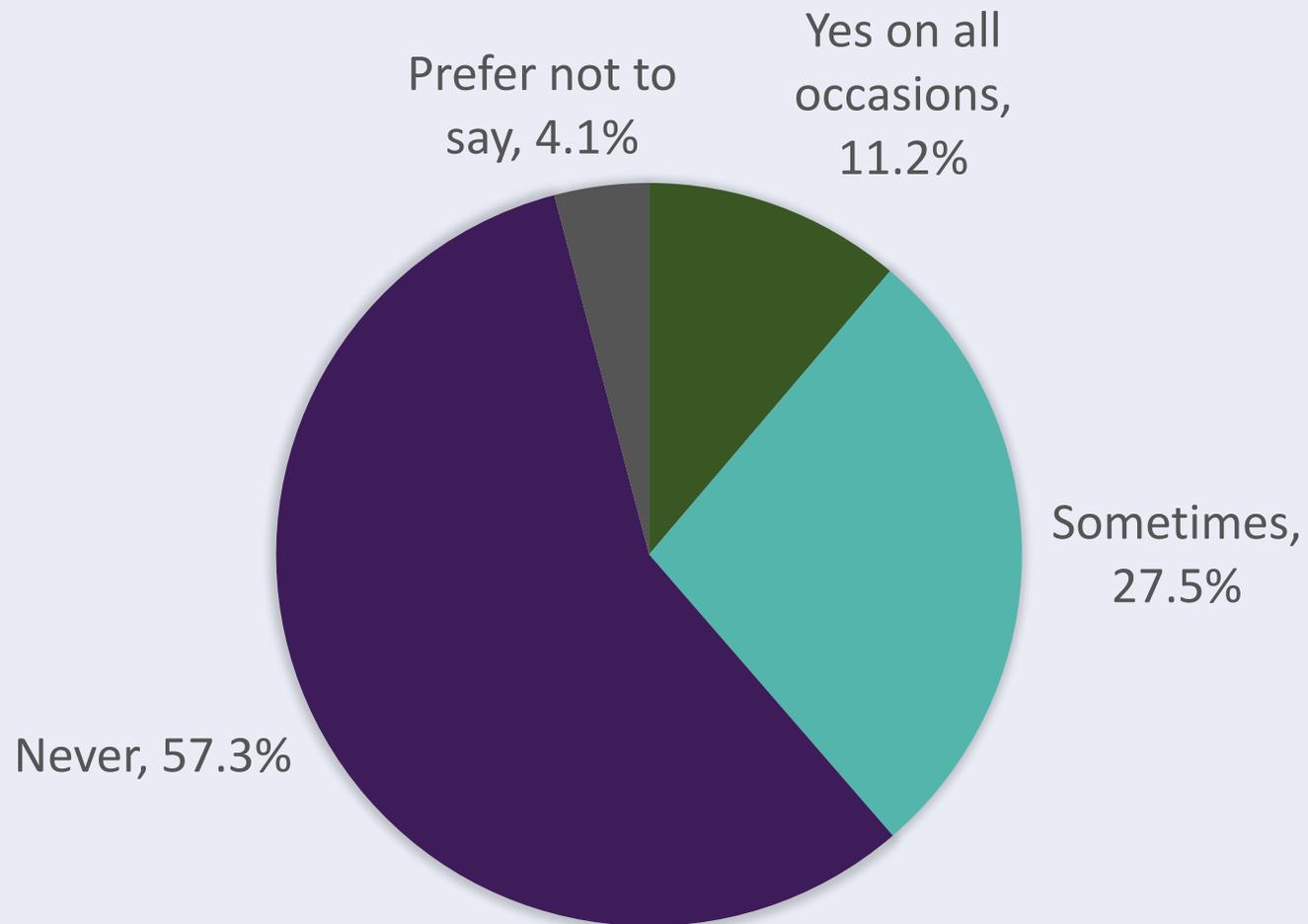
The Numbers – Bullying

Bullying Prevalence by Type



The Numbers – Bullying

Bullying Reporting

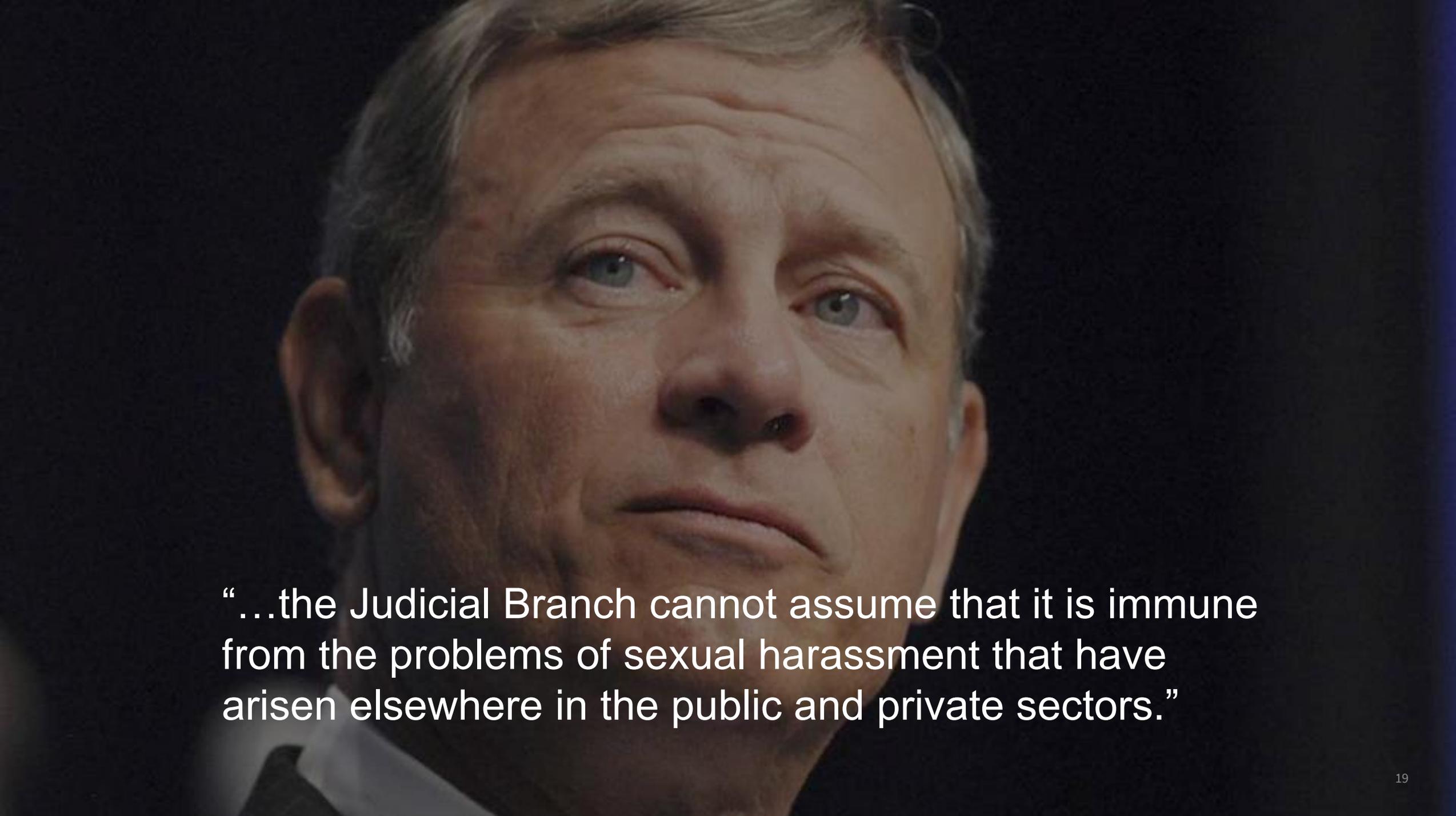


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What do you think are the reasons respondents give for not reporting incidents of bullying?

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“...the Judicial Branch cannot assume that it is immune from the problems of sexual harassment that have arisen elsewhere in the public and private sectors.”

Working Group

Quoting the EEOC Study:

“incivility is often an antecedent to workplace harassment.”

The Working Group agrees that, rather than focusing simply on eliminating unwelcome behavior, the Judiciary should:

“promot[e] respect and civility in the workplace generally.”

Diversity of the American Legal Profession

According to the American Bar Association:

Approximately
1.3 million
lawyers in America

65%
of U.S. lawyers
are men



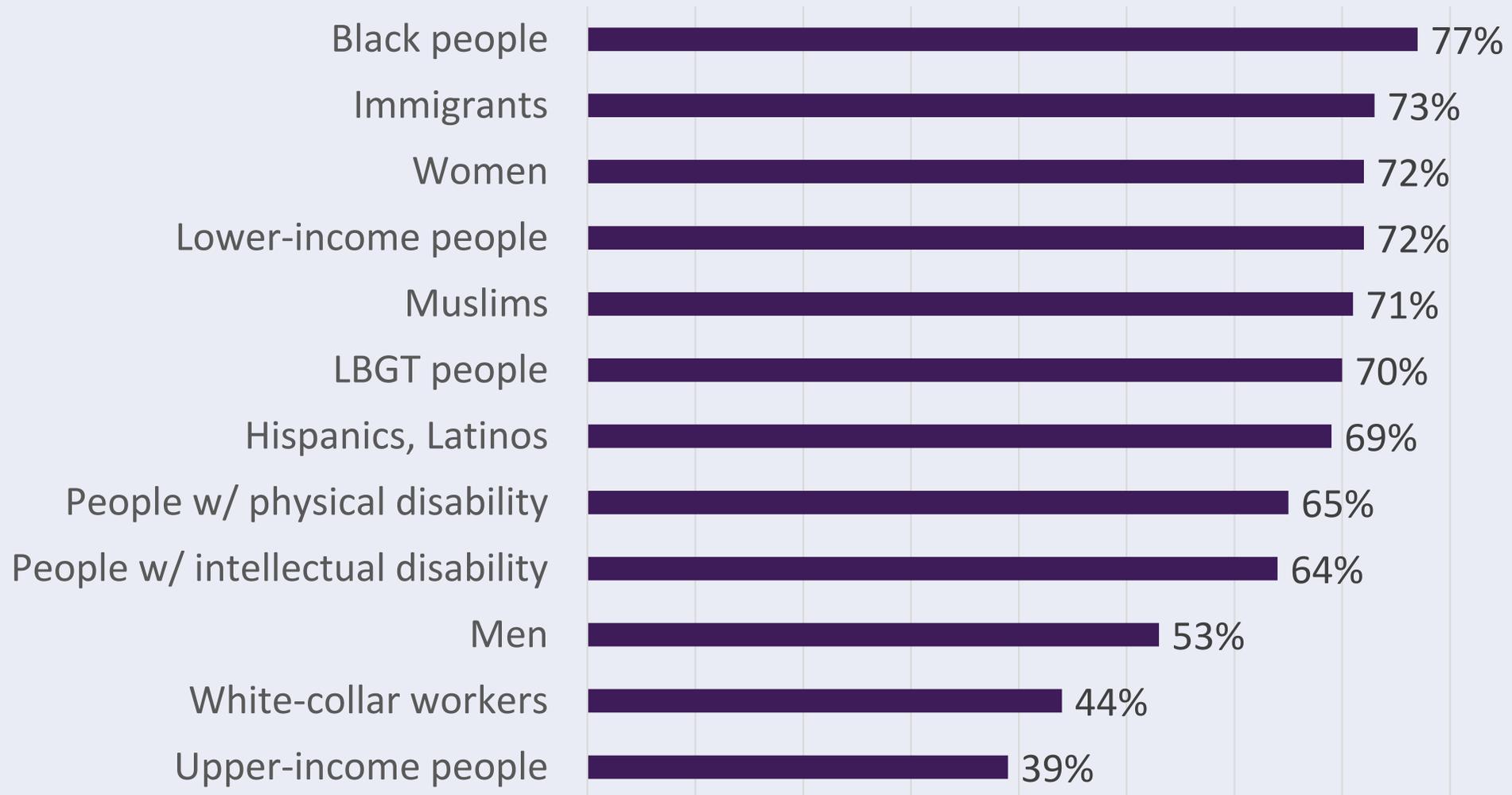
Connection Between Incivility and Lack of Diversity



Workplace Bullying Institute:

- 70% perpetrators were male and targeted females
- 30% perpetrators were female and targeted females by 67%
- Races most targeted: Hispanic, African American, Asian

Groups Most Impacted



How Attorneys Experience Unprofessional Behavior

Prejudice

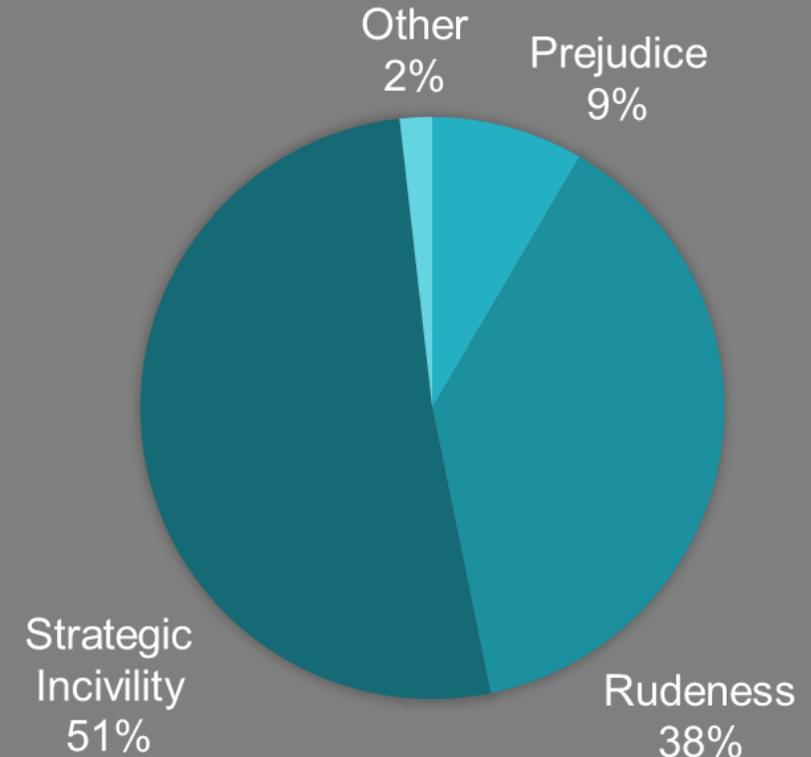
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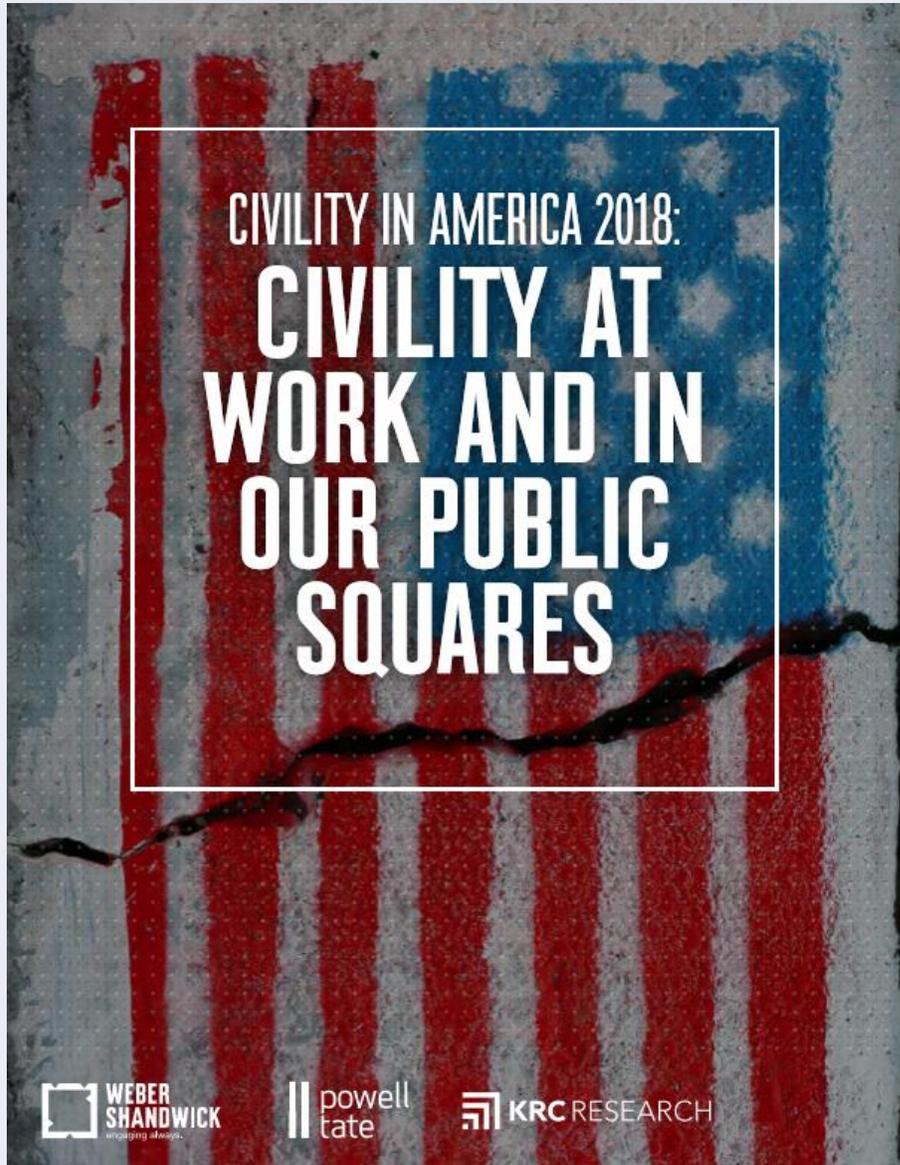


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2018 Civility in America Survey

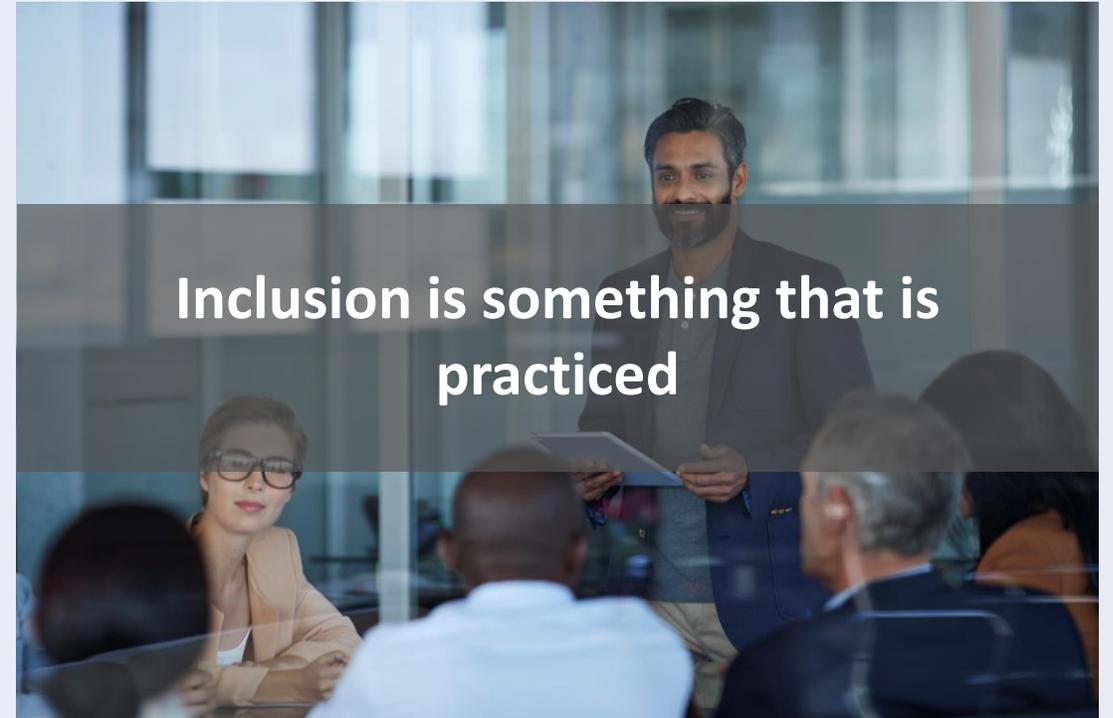


- Respondents who characterized workplace as diverse and inclusive also reported workplace as civil.
- Respondents in uncivil workplaces twice as likely to describe their employers as weak on diversity/inclusion.

Difference between diversity and inclusion



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“Diversity is being invited to the party; inclusion is being asked to dance.”

Public Trust



Gamesmanship is not the same
as problem-solving



Public doesn't trust; feels shut
out of legal system

Communication Tools to Promote Civility & Inclusion

Prepare

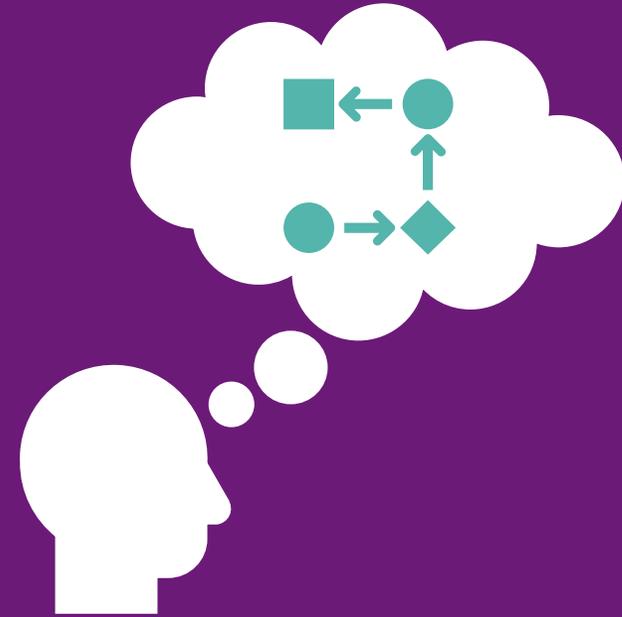
Listen

Reframe

Prepare



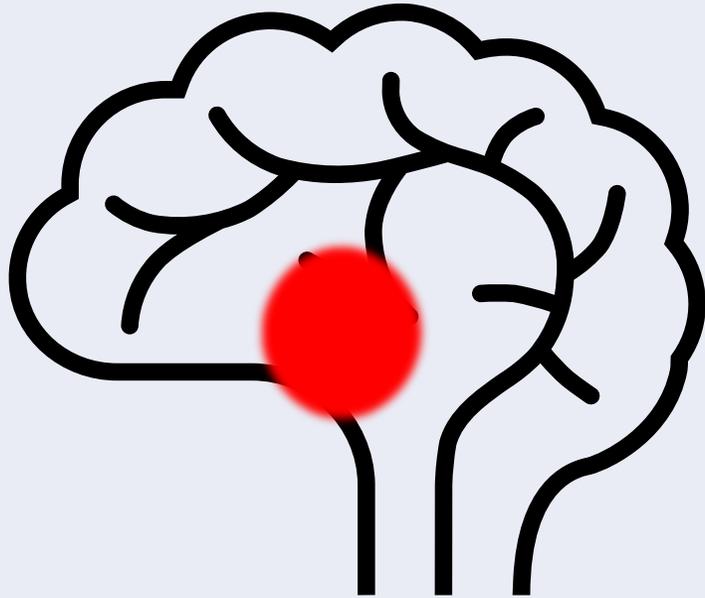
System 1



System 2

Prepare

When you feel this...



You can:

- Breathe
- Focus on your body
- Say a mantra
- Label how you feel
- Take a break

Prepare

Accommodate

Attack

Avoid

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What is your default response to conflict?

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Prepare

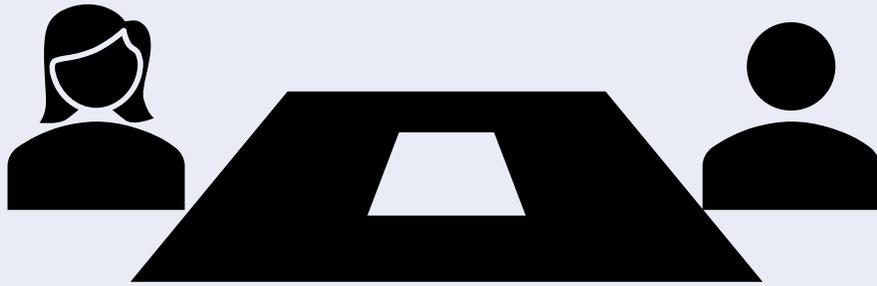


Situational Responses



Understand the Problem

What message do you get from each of these two images?

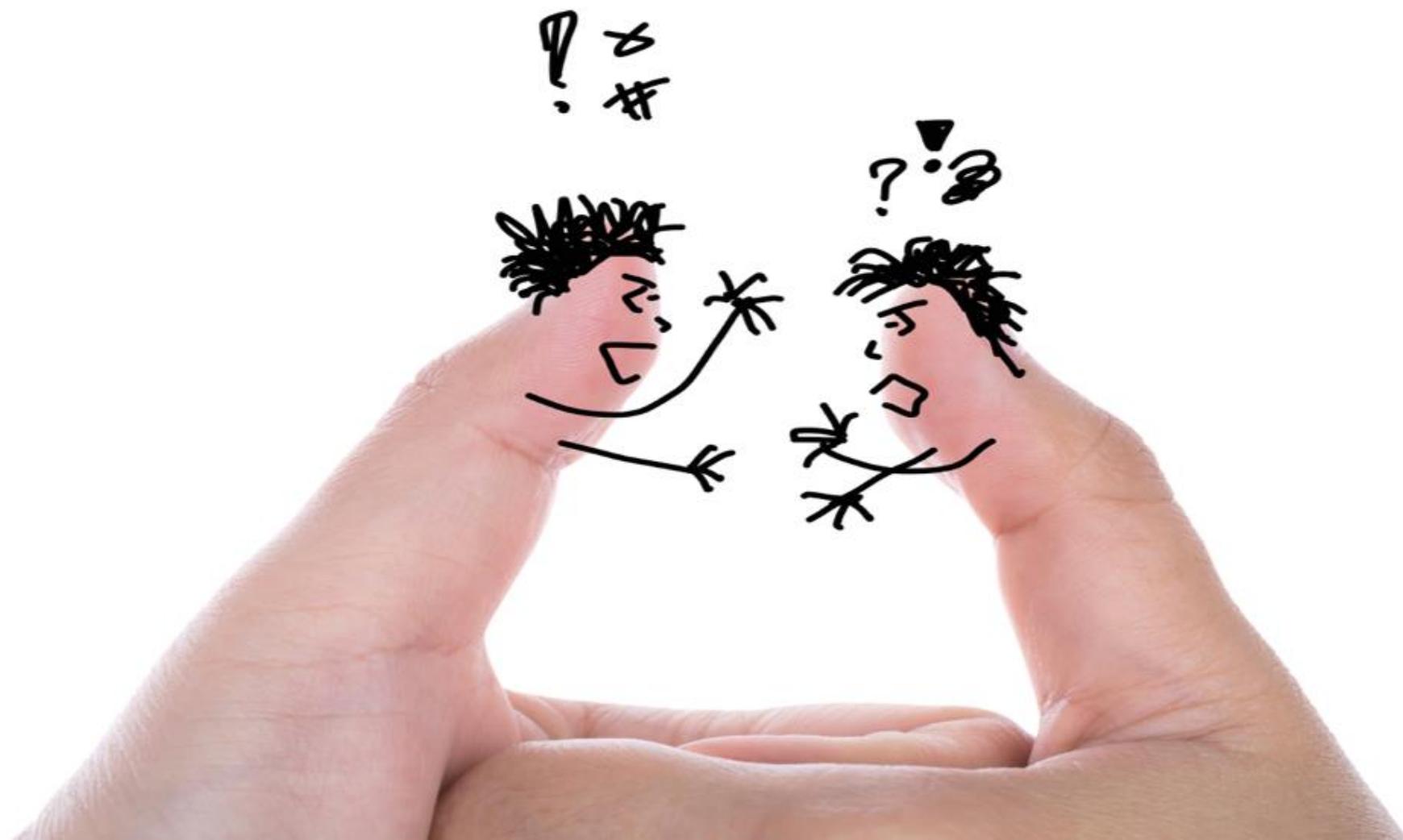


Understand the Problem



Placing the problem at the center and both of you on one side, changes the dynamic

Listening to Understand



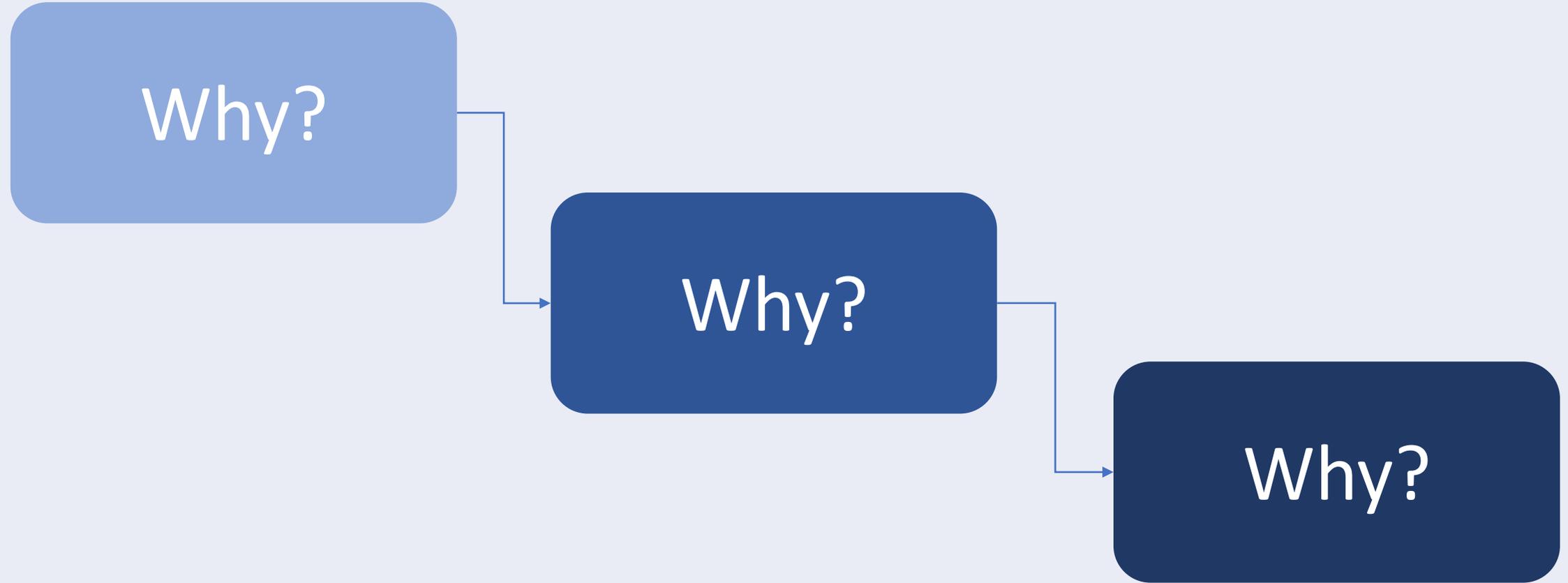
How to Listen

- 1. Listening is not judging.**
- 2. Listening is not problem solving.**
- 3. Listening is not avoiding.**

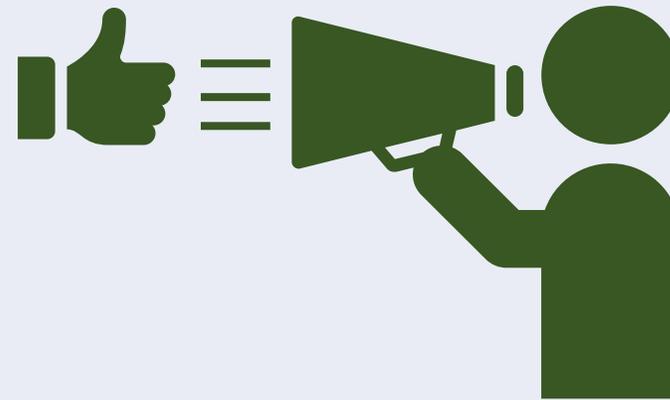
Listening to Understand

- 1. Start from a stance of curiosity and maintain attentive body language**
- 2. Inquire to learn the speaker's perspective**
- 3. Paraphrase the speaker's words**
- 4. Reflect the speaker's feelings**
- 5. Summarize and restate the main themes of the conversation**

The 3 Whys



Communicating by Reframing



Reframe the Conversation: Use The-I-We Statements

'The' statements

- Just the facts (ma'am)
- Neither judgmental nor categorical

'I' statements

- Describe your experience in first person
- Describe your interest

'We' statements

- Appeal to shared interest
- Invoke shared standards

Reframe the Conversation: 'But' to 'And'

Replace **“but”** with **“yes, and”**

Reframe Feedback: 'But' to 'And'

The first five pages of the memo are good, ***BUT the writing and organization deteriorated after that.***

What you say

Blah, blah, blah, blah... **the writing and organization deteriorated after that.**

What they hear

Reframe Feedback: 'But' to 'And'

“The first five pages of the memo are good, **BUT** the writing and organization deteriorated after that.”

“The first five pages of the memo are good **AND** it would be great if the second half were as crisp in writing and tight in organization.”

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Your point was valid, but you need to speak with more confidence.

REFRAME TO: Your point was valid, AND...

i Start presenting to display the poll results on this slide.

Reframe 'but' to 'and' in Managing Requests



**Requests are not
a zero-sum game!**

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I want to move you to the more senior role on the team BUT you don't have enough experience.

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Summary

- 1. Civility is a cornerstone strategy for success in representing clients**
- 2. Civility fosters a workplace environment where diversity and inclusion thrive**
- 3. Civil communications skills build trust and empathy with your colleagues, clients and the judiciary**

Thank you

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Executive Director, IL Supreme Court Commission on Professionalism



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[@JayneRReardon](https://twitter.com/JayneRReardon)

Outline

- 1) Success in individual cases
 - a. Zealous advocacy is not required by the RPCs
 - b. Incivility creates a negative impression with decision-makers
 - c. Guidelines for professionalism—7th Circuit
- 2) Success as a profession
 - a. State of civility
 - b. State of diversity
 - c. Civility begets diversity and inclusion
 - d. Civility begets greater trust and confidence
- 3) Communication Tools to Promote Civility & Inclusion
 - a. AAA—understand yourself
 - b. Listen
 - c. Reframe