

Legal Writing

Style your speech to register yourself as a grown-up

By Bryan A. Garner

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A SENIOR LAWYER ENcounters a junior colleague in the law library and asks how the morning's hearing came out. "The judge came down hard on us. He was like, 'The doctrine of primary jurisdiction applies only in administrative-law cases.' And I was like, 'No, Your Honor, it can have broader application.' And he was all, 'Show me some cases.'

"Anyways, I'm like researching the caselaw, you know, and like the stuff I'm coming up with is huge for our side—totally awesome. Like, I'm thinking I'll finish my brief, like, tonight. I'll show the dude his cases, for sure."

How much, like, confidence do you, like, suppose the senior lawyer will have in the junior colleague's abilities? And if the senior lawyer feels doubtful about, you know, the junior's, like, abilities, is that unfair? Is it wrong to conclude that the work product is unlikely to be totally awesome?

I've been moved to write about this type of post-adolescent language for several reasons. First, I'm convinced that people in their 20s and early 30s today—the Millennials we hear so much about, those who came of age after 2000—are clinging to this type of puerile talk more tenaciously than any cohort before them in American culture. Second, the ubiquitous *like* and *you know* are so pervasive as verbal tics, or space fillers, that habitual users simply have no idea how much they're indulging in them. (Even Gen-Xers and Baby Boomers are sometimes susceptible.) Third, hardly any speech habit can do more to torpedo your credibility when communicating between generations. And finally, no other single step can have such a profoundly positive effect on your credibility as purging these sophomoric markers from your speech.

"But wait!" you may say. "This is how my generation talks, and I enjoy sounding young. I don't want to be an old fuddy-duddy. It's not cool."

That's a fallacious argument (if you can even call it an argument). You can speak crisp, elegant standard English without being a fuddy-duddy. Lots of young people do. The ultimate issue is how to be taken seriously in a professional context.

So back to the law library. How might the junior colleague have spoken more maturely? Something like this: "The judge came down hard on us. He said, 'The doctrine of primary jurisdiction applies only in administrative-law cases.' And I responded, 'Your Honor, the courts have held that it can have broader application.' And he said, 'Show me some cases.'

"So now I'm researching the caselaw, and I'm coming up with good material. I may even finish my brief tonight. The judge should be impressed with our research."

The only difference between the two passages is that the adolescent markers conveying nothing more than, "I'm an oblivious young person with very little experience" have been excised. The message itself has been vastly improved for the intended audience.

Ah, the intended audience. All lessons in effective communication depend on understanding the intended audience. And as you well know, you speak differently, for example, to (1) your grandparents, (2) your parents, (3) your close friends, (4) a lover, and (5) a pet. At least you ought to. These audiences are vastly different.

My distinct impression, though, is that for Millennials, there's a massive blurring of #2 (the way you ought to talk to your parents) with #3 (the way you actually talk to your friends). It's not that teenage slang has been on the rise but that it has begun encroaching on terrain where it was once strictly off-limits.

When someone can shift back and forth between speech communities, linguists say that the person is engaging in "code-switching." But it's as if many Millennials prefer staying in the realm of #3 and resist adopting a distinctly grown-up speech—resist code-switching—under any circumstances. They don't accommodate others; they expect others to accommodate them. Many find that behavior rude.

Here's a real-life example, told to me by the state supreme-court justice who experienced it. Justice Holborn (as we'll call him) was on a business trip in Phoenix. Having arrived early for the conference, he went to what he had been told was one of the finest steakhouses in the city. He was 62 years old, wearing his customary three-piece suit. After he was seated, a twentysomething waiter approached his table and said, "Hey, dude, my name's Greg, and I'll be taking care of you this evening. What's your pleasure?"

This chummy salutation could have provoked a number of possible responses. One might imagine a circa-1950

response, in a gruff voice: “Don’t call me ‘dude.’ I’m a state supreme-court justice, and I’m here to have dinner.” The modern response is typically less haughty: “I’d like an iced tea and a house salad to start, please.” And that’s what Justice Holborn said.

“What’s your name?” Here comes a tricky part. A fine restaurant would probably already know, if reservations had been made: “Justice Holborn.” A lesser restaurant, or one where the judge didn’t make reservations, would have to ask—but only the *maître d’* might do that (not the waiter). The disdainful circa-1950 justice might have said to the overfamiliar waiter, “That’s of no consequence. Call me ‘sir’ if you must address me directly.”

But our society has gotten incredibly more egalitarian, and the old-fashioned gruffness has been muted. The justice simply said, “Bill Holborn,” as a result of which the college-student waiter began trying to ingratiate himself with “Bill” and then, startlingly, “Billy Boy.” “Did that hit the spot, Billy Boy?” “Still grazing on that yummy ribeye, my man?”

Upon Justice Holborn’s asking for iced tea, Greg responded: “Would you like anything illegal in that to spice it up a bit? Just kidding!” (Howls of laughter from Greg.) The justice must have concealed his chagrin well because, at the end of the evening, Greg clasped his hand on Justice Holborn’s shoulder and announced, “It was a pleasure serving you, dude! Come back again, Billy, my man!”

I can imagine my readers having mixed reactions: (1) those who are stunned at the inappropriate behavior to which Justice Holborn was subjected and who sense his discomfort; (2) those more egalitarian readers, who think that the waiter was just going through his youthful, friendly spiel, and that it’s not so bad—in fact, it’s probably a good thing—for the justice to get a taste of “real life” out in Arizona. Indeed, if you polled sitting judges, you’d have some in each camp (though I’d wager many more in the first).

In a way, Greg had the same problem that the junior lawyer in the law library had: he wasn’t adapting his speech appropriately to the situation by using a higher register—that is, a more dignified level of speech.

In any event, Justice Holborn was so stunned by the entire experience that he regaled a few of us on the golf course the next day with his story about Greg. And when our conference was over and I had a free night in Phoenix, I decided to try that steakhouse and see if I could be lucky enough to meet this character. I did, and I was. After I said I was a friend of Bill Holborn’s, Greg exclaimed, “Dude!” and gave me a high five. My own evening was every bit as fascinating as my friend’s had been. I felt like a sociologist the whole time.

If you want to be an effective communicator, your sense of tact must lead you to the right linguistic register for your audience. In law, it’s a tricky register. At its best, it consists of these elements: standard, durable English shorn of most slang and all distinctly adolescent talk; simple words for simple ideas (never *officialese* such as *prior to* for *before* or *vehicle* for *car*); short sentences, mostly, punctuated by the occasional long sentence; a heightened, polished syntax that seems natural (no pretentiousness allowed); and a tone that reflects a suitable deference where deference is called for (junior to senior, lawyer to judge, and so on). Unfortunately, this is a style that law students rarely see because most law talk they encounter in casebooks and elsewhere is hyper-stuffy, with overlong sentences and a pompous tone. So it’s a great challenge to find just the right level to pitch your tone.

But remember that rejecting legalese and pomposity doesn’t mean that you must go to the other extreme of embracing teenage talk. Remember also that developing good linguistic habits entails making conscious choices about how you want to sound. Foshizzle. (Er . . . “Indeed.”)