



## Countering Disinformation Task Force

October 01, 2020

Report and Recommendations

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## EXECUTIVE SUMMARY

### Creation and Purpose of Task Force

Arizona Supreme Court Chief Justice Robert Brutinel’s strategic agenda for Arizona courts, *Justice for the Future, Planning for Excellence*<sup>1</sup>, includes a focus on promoting public trust and confidence in courts and awareness of the role that courts serve in society. Arizona’s court leaders recognize that there are people, organizations, and foreign and domestic entities that intentionally instigate or seed disinformation<sup>2</sup> into the information environment<sup>3</sup> to undermine public confidence in this country’s institutions, including courts. It seems that each day includes a headline revealing the use of disinformation to sow the seeds of skepticism or distrust in American democracy, and there is every indication that these efforts will continue and that tracing their origins will become more difficult.

This is not just a local or national threat, but a global one. Europe and the West are experiencing a flood of disinformation campaigns. Although this menace predates the current COVID-19 global pandemic, the public health crisis has provided a fertile landscape for malicious actors to spread disinformation. An extensive study was commissioned by the European External Action Service’s Strategic Communications Division and prepared independently by James Pamment of the Partnership for Countering Influence Operations at the Carnegie Endowment for International Peace. That study culminated in a three-part series of white papers that look at the future of the European Union’s (“EU”) disinformation policy where it established a holistic framework for analyzing and countering disinformation.<sup>4</sup> The disinformation challenge is complex and involves all parts of society, not just technology. “Reviewing the EU’s policies provides an opportunity for countries like the United States to draw lessons to inform their own multi-stakeholder strategies to counter disinformation.”<sup>5</sup>

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<sup>1</sup> *Justice for the Future, Planning for Excellence*, at <https://www.azcourts.gov/AZ-Courts/Strategic-Agenda>

<sup>2</sup> For this Report, the Task Force defined disinformation as “*False, inaccurate or misleading information that is deliberately spread to the public with the intent to undermine the democratic process, sow discord, profit financially, or create distrust of government institutions or public officials. Disinformation should not be confused with misinformation, which is false information shared by those who do not recognize it as such, or with legitimate criticism, protest or censure of government actions, institutions or processes.*”

<sup>3</sup> “Information environment” is used here to capture all forms of communication, including traditional print, radio, and TV media, social media, other online outlets, pamphlets, artificial intelligence and bots, in-person discussions and beyond.

<sup>4</sup> *The EU’s Role in Fighting Disinformation: Taking Back the Initiative*, July 15, 2020, at <https://carnegieendowment.org/2020/07/15/eu-s-role-in-fighting-disinformation-taking-back-initiative-pub-82286>

<sup>5</sup> *Coming Together to Fight Fake News: Lessons from the European Approach to Disinformation* by Annina Claesson, April 8, 2019, at <https://www.csis.org/coming-together-fight-fake-news-lessons-european-approach-disinformation>

Information about local and national experiences with, and responses to, misinformation and disinformation were a regular part of the discussion at workgroup and Task Force meetings. At the same time, members of the public who attended Task Force meetings commented on the need for the Task Force to recognize First Amendment rights and to protect robust debate, differences of opinion, and legitimate criticism of courts and of the government's actions. The Task Force wholeheartedly endorses this goal.

Indeed, the ideals of free speech, open courts, criticism and debate, in addition to transparency and accountability, appear in the first paragraph of Administrative Order 2019-114 ("AO 2019-114")<sup>6</sup> that established the Task Force. This report and recommendations ("Report") seeks to promote free speech, the right of redress of grievances, and the ability to voice sincerely held differences of opinion, while acknowledging that groups exist whose intent is to monopolize and degrade the debate for their own purposes of eroding trust and confidence in courts and the judicial system.

The National Center for State Courts ("NCSC"), national security professionals, the Center for Strategic and International Studies ("CSIS") and others have drawn attention to this threat. The American public benefits when individuals discuss and debate legitimate issues and suffers when outside influences manufacture or amplify controversy in an effort to weaken the U.S. system of justice. Tactics like these not only pose a threat to the judiciary, they pose a threat to democracy itself.<sup>7</sup>

To address these issues in Arizona, on September 18, 2019, Chief Justice Brutinel issued AO 2019-114, establishing the Task Force on Countering Disinformation ("Task Force"). Chief Justice Brutinel ordered that the Task Force may:

- a) Review examples of disinformation and misleading campaigns targeting the U.S. and Arizona justice systems;
- b) Consider the need for local and national responses and information sharing related to disinformation and ways to communicate accurate information;

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<sup>6</sup> In the Matter of: Establishment of the Task Force on Countering Disinformation, at <https://www.azcourts.gov/Portals/22/admorder/Orders19/2019-114.pdf>.

<sup>7</sup> *Deepfakes: The Next Big Threat to American Democracy?* Government Technology, March 5, 2020, available at <https://www.govtech.com/products/Deepfakes-The-Next-Big-Threat-to-American-Democracy.html>

- c) Consider a centralized point of contact to assist in identifying disinformation and having it removed while respecting individual opinions and First Amendment rights;
- d) Consider state or local legislation that would require foreign agents to identify their content to the public;
- e) Propose approaches to public education and communication that accurately reflect the roles and processes of courts;
- f) Suggest technology and resources that can identify disinformation campaigns early enough to counter them with accurate information;
- g) Identify public and private individuals and organizations that could share information to identify disinformation and respond with accurate information.

AO 2019-114 further directed the Task Force to submit a Report to the Arizona Judicial Council (“AJC”) by October 1, 2020, “offering options to help ensure that accurate, verifiable facts and information remain available to the public.” This is that Report.

### **The Task Force Process**

Task Force members were selected from the public and private sectors for their experience in communications, academia, research, technology, law practice, community outreach, media relations, training and education, international relations, security protocols, and administration of the trial courts, where the public most directly interacts with Arizona’s courts.

With one exception, the Task Force met monthly from October 2019 through September 2020, discussing the directives outlined by AO 2019-114. The exception was in April of 2020 when the public and private sectors were committed almost exclusively to adapting their operations in response to the COVID-19 pandemic. Workgroups within the Task Force began to hold meetings by conference call, and starting in May of 2020, Task Force meetings transitioned to virtual meetings and continued that approach throughout the duration of the Task Force’s work.

The Task Force was originally divided into several workgroups, each assigned one or more of the directives in AO 2019-114. Workgroups met in breakout sessions scheduled at the discretion of the workgroup leaders, periodically inviting subject matter experts to give presentations and to suggest approaches on various topics. Workgroup 1 consistently worked toward creating, administering, and analyzing a disinformation survey of judges and other court professionals in Arizona. As the Task Force narrowed its recommendations toward education and outreach, the remaining workgroups consolidated over time into a single Workgroup 2.

Each Task Force meeting included presentations by the workgroups and questions from and feedback by all Task Force members about workgroup efforts. Task Force meetings were attended by the public and stakeholders who contributed comments on the workgroup recommendations and other concerns. This approach incorporated different perspectives, addressed overlap among workgroups, and enabled the development of meaningful final recommendations.

Three overlapping events with global implications took place during the Task Force's work: The COVID-19 pandemic, the lead-up to the 2020 U.S. presidential election, and the racial justice movement spurred by the death of George Floyd. The prevalence of misinformation and disinformation revolving around these events appear to have grown exponentially, and discussions of misinformation and disinformation in public discourse increased as well, as evidenced by social media giants like Facebook<sup>8</sup> and Twitter<sup>9</sup> deploying account restrictions and notifications based on sources and content they reviewed from posts by account holders. How these events provided context for the Task Force's work and the misinformation and disinformation surrounding them, appears in the background section later in this report.

The Task Force heard presentations on examples of foreign and domestic disinformation campaigns; how they are likely to adapt and morph over time, how to track and trace them, and how courts and individuals in the justice system can prepare for and respond to them. The Task Force heard from speakers about the Arizona and California Codes of Conduct for judicial employees and judicial officers and what those Codes prohibit, require, and encourage as courts respond to disinformation through public education and outreach. In addition, the Task Force heard from experts in court administration, social media "listening" and campaign tracking technology,

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<sup>8</sup> <https://www.foxbusiness.com/technology/facebook-will-start-flagging-some-political-content-that-violates-policies>

<sup>9</sup> [https://blog.twitter.com/en\\_us/topics/product/2020/updated-our-approach-to-misleading-information.html](https://blog.twitter.com/en_us/topics/product/2020/updated-our-approach-to-misleading-information.html)



legal and traditional educational curriculum, national and local security, court responses to disinformation campaigns, media and mass communication trends, media literacy,<sup>10</sup> and national trends in state courts.

The Task Force notes that some members of the public assert that courts act in secret or take steps to exclude the public from court proceedings. It is important to acknowledge that some court proceedings, portions of proceedings, or court records are made nonpublic for legitimate reasons by rule, statute, or order and that those directives vary state-to-state and sometimes case-by-case. The Task Force is aware that some groups and individuals disagree that certain case types, proceedings, and records should be closed. In Arizona, these case types include adoptions, juvenile dependency matters, mental health cases, certain guardianship matters, and others. The policies, rules, and statutes requiring closure are clear, policy-based, and publicly available, but they are often not familiar to court-monitoring groups or the general public. Steps that courts and judicial officers can take to promote clarity in these areas, such as consistently providing admonitions, posting rules and procedures in a conspicuous place, and explaining matters to litigants and the public will improve trust and confidence in the courts.

The Task Force notes that nonpublic proceedings and records are the exception, not the rule. Arizona's constitution directs that court proceedings "shall be administered openly."<sup>11</sup> Likewise, Arizona's court rules state that court records are presumptively open, with statutes, rules, and individual court order providing permissible exceptions.<sup>12</sup> This structure of public and nonpublic access is modified with changes in rules, laws, and procedures over time and as required in individual cases. When judicial officers and court staff apply these requirements to individual cases, it should not be categorized as the actions of an indifferent or uncaring person, but as adherence to the law. Moreover, even in matters or records that are defined as nonpublic, Arizona and other jurisdictions allow arguments to the court for exceptions that would allow access.

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<sup>10</sup> For more information about media literacy, see Arizona State University's News Co/Lab page at <https://newscollab.org/>.

<sup>11</sup> See Ariz. Const. Art. 2 § 11:

<https://www.azleg.gov/viewDocument/?docName=http://www.azleg.gov/const/2/11.htm>

<sup>12</sup> See Rule 123(c)(1), Rules of the Supreme Court of Arizona. Juvenile and child welfare cases including severances and adoption are exceptions. See Rule 123(d)(1)(B) ("All records of proceedings under Rule 47.3, Rules of Procedure for the Juvenile Court, dependency, guardianship under ARS §§ 8-871 through 8-874, termination of parental rights, adoption, and other related proceedings are confidential and must be withheld from public inspection unless authorized by law, rule, or court order.")

The Task Force approved a draft Report at its August 2020 meeting, allowing time for the Report to be circulated for review and comment to stakeholders, including: The National Center for State Courts; the Arizona Court of Appeals; Co-chairs of the Arizona Supreme Court’s Commission on Access to Justice; the Arizona Association of Superior Court Administrators; the Arizona Association of Superior Court Clerks; the Limited Jurisdiction Court Administrators Association;<sup>13</sup> the Committee on Limited Jurisdiction Courts; the Arizona Bar Foundation; Arizona State University’s Cronkite School of Journalism and Mass Communication, News Co/Lab; and the Tucson Chapter of the American Board of Trial Advocates. At its final meeting in September 2020, the Task Force discussed and approved a final Report.

### **Abbreviated Recommendations**

1. Redesign the *Our Courts Arizona* (“OCA”) interactive civics program, nominate a court liaison to Arizona’s K-12 statewide educational program committee(s), and expand the judicial branch’s community outreach.
2. Establish in-person and web-based court contacts and outreach to help the public and the media understand the role of the court and the function of the judicial branch, and to help counteract and respond to disinformation at the local level.
3. Modify the Arizona Code of Judicial Conduct to specifically address personal attacks against judges.
4. Establish a “Rapid Response Team” to address situations where disinformation targeting a judicial branch individual, a court, or a court system occurs and publish a comment to the Arizona Code of Judicial Conduct Rule 2.10 to provide guidance as to how and when such instances should be addressed.
5. Establish a Local/National Disinformation Study Network for further analysis.
6. Establish a national, centralized point of contact to assist in identifying disinformation and having it flagged or, if warranted, removed while respecting the expression of individual opinions and the exercise of First Amendment rights.

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<sup>13</sup> In addition to appellate courts, Arizona courts are divided into limited jurisdiction (municipal and justice courts) and general jurisdiction (one superior court located in each of the 15 counties).

7. Monitor technology and resources that can identify disinformation campaigns early enough to counter them with accurate information and gather public contact information to improve courts' outreach and responsiveness.
8. Make federal public information available in Arizona regarding registrations as foreign agents under the Foreign Agents Registration Act, 22 USCA § 611, et. seq. ("FARA").
9. Extend the term of the Countering Disinformation Task Force through December 2021.

## REPORT AND RECOMMENDATIONS

### I. Background

In May 2019, the National Center for State Courts (“NCSC”) hosted an invitation-only presentation to representatives from several court systems around the United States. The attendees, including David K. Byers, Director of the Arizona Administrative Office of the Courts (“AOC”), heard from the Center for Strategic and International Studies (“CSIS”) regarding examples of foreign influence in the 2016 presidential election. The presentation referenced the potential for disinformation attacks against courts as part of a larger campaign to create a lack of trust in U.S. institutions and democracy in general.

Director Byers returned to Arizona, updated Arizona Supreme Court Chief Justice Robert Brutinel on the presentation and recommended that the AOC further review the potential for organized campaigns against the trust and credibility of Arizona’s courts. Chief Justice Brutinel established Arizona’s Countering Disinformation Task Force (“Task Force”) by Administrative Order in September 2019 (“AO 2019-114”).<sup>14</sup> Arizona is believed to be the first state court system in the nation to create a formal Task Force to address the issue.

From the Task Force’s first meeting in October 2019 through March of 2020, it proceeded along a customary schedule of all-member meetings and workgroup sessions. As a first-of-its-kind team, the Task Force was perceived by some as an oddity but became recognized as a necessary step in preparing for and responding to disinformation campaigns targeting the judicial branch. Disinformation campaigns and the courts’ and public’s awareness of them grew exponentially during the Task Force’s term.

Between March and September 2020, the Task Force’s work was conducted during the COVID-19 pandemic. In May 2020, the death of George Floyd while in the custody of Minneapolis police officers sparked national and global protests calling for, among other things, equal justice and the elimination of racial bias in government institutions.<sup>15</sup> Additionally, the 2020 presidential election began to dominate the news cycles. The protests, participants, and resulting

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<sup>14</sup> In the Matter of: Establishment of the Task Force on Countering Disinformation, at <https://www.azcourts.gov/Portals/22/admorder/Orders19/2019-114.pdf>.

<sup>15</sup> See the July 30, 2020 resolution from the Conference of Chief Justices/Conference of Supreme Court Administrators, at [https://ccj.ncsc.org/\\_data/assets/pdf\\_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf](https://ccj.ncsc.org/_data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf) and the National Center for State Courts’ compilation of statements from state supreme courts, at <https://www.ncsc.org/newsroom/state-court-statements-on-racial-justice>.

images from these events were prime opportunities for misinformation, disinformation, and foreign influence.<sup>16</sup>

As the Task Force's work converged with local and national elections in the Fall of 2020, more public attention focused on social media platforms, the evidence and impact of foreign influence on social media, and the opportunities for interested groups, both foreign and domestic, to promulgate messages intended to reduce trust and confidence in American values and institutions.

These events continued and overlapped for months. In some ways, this confluence of events provided the Task Force with opportunities to consider its work and prepare its responses in a highly relevant context. Without question, the American court system performs a vital adjudicatory and final decision-making function for the American public, which necessarily includes politically-charged and emotional issues. Moreover, the impending escalation of the attack on the judiciary poses grave consequences if left unchecked. In the fragile balance of democracy, it is the judiciary that ensures and protects the rule of law and provides checks and balances between the legislative and executive branches. "... [T]he [Supreme] Court is charged with ensuring the American people the promise of equal justice under law and, thereby, also functions as guardian and interpreter of the Constitution."<sup>17</sup> The integrity, independence, and confidence in the judicial branch is critical not only to Arizona and the U.S., it is critical to democracies worldwide.

In July 2020, a need emerged to address mistrust of courts as a public safety measure. A federal judge's son was shot to death when he opened the door of their family home to an attorney who appears to have targeted the judge for her court rulings. Judges, who typically do not receive security outside of court unless they face specific threats, are subject to individuals who fixate on hatred and cross the line of protest and complaint into acts of violence or murder.<sup>18</sup>

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<sup>16</sup> *COVID-19 Disinformation, How to Spot It – and Stop It*, Union of Concerned Scientists, July 14, 2020: <https://www.ucsusa.org/resources/covid-19-disinformation>; *The Flood of Online Misinformation Around the George Floyd Protests*, Lawfare, June 22, 2020: <https://www.lawfareblog.com/flood-online-misinformation-around-george-floyd-protests>; *How Disinformation Has Morphed for the 2020 Election*, Bloomberg, May 13, 2020: <https://www.bloomberg.com/news/articles/2020-05-14/how-disinformation-has-morphed-for-the-2020-election-quicktake>

<sup>17</sup> About the Court: The Court and Constitutional Interpretation: <https://www.supremecourt.gov/about/constitutional.aspx>

<sup>18</sup> See <https://www.uscourts.gov/news/2020/08/14/judicial-conference-approves-measures-increase-security-federal-judges>.

It was against this backdrop that the Task Force formulated its recommendations. In some instances, the Task Force either did not make a recommendation or recommended taking no action on a directive in AO 2019-114. For example, the Task Force reached consensus early in its work that individual courts and state court systems would not have the resources or desire to fight every campaign or to respond to every negative statement. It believes a better approach would focus on helping the public recognize disinformation and on fostering or restoring public confidence in a just society, where due process is consistently enforced and access to justice for all is a reality.

The Task Force asserts that the judicial branch must work tirelessly to assure that America's courts remain the model for the world, to recognize that courts are not perfect, that the law is constantly evolving, and the justice system must adapt accordingly. To achieve this, courts need honest, dedicated critics and monitors of court proceedings. Courts must also oppose malicious campaigns, foreign and domestic, intended to weaken the United States through discrediting and defaming courts as a co-equal branch of government. Considering the current inadequacy of civic education and understanding, the Task Force asserts that proactive measures are necessary to achieve this goal of protecting the rule of law.

The Task Force's preference, and the foundation for most of the recommendations in this report, is one of ongoing education and community outreach. The Task Force believes that government is of the people, and that individuals who work in government, such as judges and judicial branch staff, can more effectively reach and engage their neighbors and communities than can statements from unnamed, unknown entities or foreign actors.

The Task Force believes that civic education—identifying the courts as the source of accurate information about court processes and procedures—can be the grassroots foundation for restoring and promoting understanding of the courts, for improving the trust and confidence in their performance, and for emphasizing the courts' place within American culture and society. Partnerships with K-12 schools, higher education, family and adult-focused community clubs and organizations, chambers of commerce, and with the traditional and newer media outlets are steps toward this critical goal. A well-informed electorate is a prerequisite for democracy; reinvigorating civic education prepares future leaders for their roles and will be of immeasurable value in reaching that objective.

What follows are the Task Force's recommendations to the Arizona Judicial Council ("AJC"). Some of the recommendations can be implemented by any local court at any time, such as establishing a website or social media presence that the media and the public can turn to for the

latest, accurate information. Other recommendations will require multi-state partnerships with years-long follow-up, analysis, assessment, and modifications. The Task Force recognizes that courts may need to reallocate or secure additional resources to implement some of the recommendations presented here.

The Task Force views this Report as a first step. By its nature, disinformation will evolve rapidly, partly to counter recommendations like those in this report. The Task Force aimed to make immediately effective recommendations toward improving and maintaining public trust and confidence in courts, and to serve as a starting point for other court systems. The Task Force is also recommending an extension to its initial term to continue Arizona's efforts.

Courts can modify these recommendations for their local jurisdictions, allowing them to be responsive and adaptable to their communities' needs and expectations. The Task Force's hope is that courts throughout the nation will share and learn from each other in building a stronger judicial branch that earns and maintains the trust and confidence of the public we serve, so that we may protect democracy together.

## **II. Disinformation Survey and Analysis**

Among the tasks assigned to the Task Force was a need to understand the general awareness by court officials of misinformation and disinformation activities and to gain insight into the prevalence of these activities affecting Arizona courts. Put another way, the Task Force sought to analyze and therefore better understand the problem in Arizona. To accomplish this goal, the Task Force formed Workgroup 1 to conduct a survey of court officials throughout Arizona, analyze the results of the survey, and make recommendations based on the findings. Workgroup 1's recommendations from that process are reflected in the Task Force recommendations.

### **Survey Process**

To fulfill its mandate, Workgroup 1 developed an online survey for Supreme Court justices, court of appeals judges, adult and juvenile probation chiefs, superior court clerks, all superior court judges, all justice court judges, all municipal court judges, the clerks of the courts of appeal and the supreme court, superior court administrators, justice and municipal court administrators, the AOC's director, Arizona's tribal courts, and federal judges working in Arizona. The survey was not a survey of the public, litigants, traditional media or others, but was designed for and

administered to judicial officers and judicial branch members to develop a baseline understanding of disinformation awareness and the impact of it on judicial officers and courts.

A link to the survey was sent by email to 584 individuals on January 2, 2020, and 223 responses were received by the January 17, 2020 response deadline. The survey provided respondents with the approved Task Force definition of the term “disinformation,” and included five questions and associated response options.<sup>19</sup> The survey also gathered demographics information such as role in the courts, years of experience in courts, location and level of court within the state, and gender.<sup>20</sup> Respondents could opt-in to having their responses included in public documents. Of those who responded, 33 agreed to follow-up conversations on their responses and Workgroup 1 members reached out to each of them to clarify and gain greater insight into their survey responses. The follow-up conversations are reflected in the analysis that follows.

### **Qualitative Analysis of Disinformation<sup>21</sup>**

The qualitative responses to survey questions about experiences with disinformation were manually coded through systematic, iterative review of the text to identify themes and patterns. No predetermined coding scheme was used, preferring an inductive method to avoid imposing expectations or bias and letting the respondents’ answers guide interpretation. What emerged was a set of categories, some of which focused on the types of behavior described, others on the individuals, groups, or institutions involved.

The category of “online dissemination” can be seen less as a discrete class of behaviors, and more as a means of amplifying and disseminating behaviors that occur in other categories. The wide dissemination of accusations of bias or corruption, or misleading statements about the judiciary, increases their reach and potential impact on the public. It is important to note, however, that the survey was not designed to measure the reach of any of these online activities, and therefore the results point out the *potential* for such activity to extend mistrust of the judiciary to the broader public—the survey was not designed to assess whether it has actually done so.

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<sup>19</sup> See Appendix A

<sup>20</sup> See Appendix B

<sup>21</sup> For a full summary of results, including sample quotes from survey responses, see Appendix C.



The findings indicate there is widespread confusion within the judiciary about what constitutes disinformation, what forms it may take, and where it may come from. The main categories of phenomena identified by respondents are:

- **Accusations of judicial wrongdoing.** One of the categories of perceived disinformation most frequently mentioned by respondents had to do with instances when the individual, or court, was accused of wrongful behavior or motives. These might include accusations of corruption or fraud, of bias for or against certain types of defendants, or of politically motivated decision making based on partisan loyalties. While malicious actors might try to undermine faith in the impartiality of the courts by making such accusations, or amplifying claims made by others, the more likely explanation is that these accusers are people unhappy with decisions made by the courts.
- **Legal disagreements and misunderstandings.** Another common pattern referred to people claiming that court decisions were incorrect or describing the facts of the case in ways that survey respondents felt misrepresented the actual circumstances. Here again, from a disinformation perspective, it's difficult to distinguish between good-faith misunderstandings or disagreements and those that might be made to purposely damage the reputation of the judiciary.
- **Disruptive actions in courtroom settings.** Several respondents referred to incidents in which groups enter the courtroom to disrupt proceedings, often recording or live-streaming events on their phones. These disruptions tend to be coordinated by people who state they have been wrongfully treated by the courts or who challenge their authority, and videos may be edited to present an unfavorable impression of the judicial system. As such, these actions fall into a grey area with respect to our working definition of disinformation.
- **Fraudulent actions.** Some respondents described seeing counterfeit court orders or hearing of "juror scams" conducted by telephone. Without knowing if these were designed to undermine confidence in the courts or support for jury service, these incidents may be more accurately classified as fraud than as disinformation.

- **Media inaccuracies.** Several respondents complained about media coverage of judicial proceedings and court decisions. Some of their complaints referred to inaccurate or misleading reporting, while others dealt with dubious “research” making false claims about the workings of courts in Arizona, disseminated through consumer media or academic journals. Some respondents acknowledged that the media sometimes issues corrections to initial reports, often based on the reporter’s lack of legal knowledge or as an apparent effect of a rush to publish, rather than deliberately malicious acts.
- **Online dissemination.** Many respondents complained of information published online, whether on websites or social media, in text accounts or recorded videos. Most of these incidents involved the same kinds of phenomena described in the other categories but given greater visibility via the internet. In this sense, they are not so much examples of distinct phenomena but rather of amplification, which can contribute to the spread of disinformation efforts where those may be occurring. They can also be the work of people acting in good faith who have encountered mis- or disinformation and believe they are helping to inform others by passing it along. This category also includes fake social media accounts, or the use of inaccurate or misleading information in online marketing efforts (such as YouTube videos) by attorneys.

Through the interview process following up on the survey, the Task Force became aware of a judge-rating website containing postings apparently directed at discrediting a large number of U.S. judges in all 50 states and, more broadly, the judiciary in those states as an institution. Further study will be done of postings on that website as possible examples of disinformation.<sup>22</sup>

Except for that website, Workgroup 1’s limited-scope review was presented with no definitive evidence of coordinated disinformation campaigns. That is not to suggest that such a coordinated campaign aimed at the courts and the rule of law is not present or on the horizon. When discussing disinformation, there is abundant and clear evidence that malicious actors are intent on sowing discord and distrust in U.S. democratic institutions. The courts and the rule of law are prime targets for these campaigns and the judicial branch would be well-served by proactively preparing their responses.

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<sup>22</sup> See memo at Appendix D and related resources at <http://www.azcourts.gov/Portals/74/DisinformationTF/CDTF%20Appendix%20D%20resources.pdf>.

The data point toward mistrust of courts and judicial institutions among some members of the public, which is, in some cases, exacerbated by media reports or statements by influential public figures, including American political figures. This mistrust, if widespread, may represent a vulnerability in the democratic system akin to that resulting from inadequate civic education. These vulnerabilities are, in turn, ripe for exploitation by malicious actors, whether domestic or foreign, and could open the door to future disinformation operations. Survey respondents named different types of individuals and groups as responsible for the actions described. These ranged from parties in court proceedings, whether litigants or attorneys, to elected officials, formally and informally constituted groups, and political parties.

### **Narrative Analysis of Disinformation**

While individual news articles, social media posts, and videos might contain pieces of information that are false and misleading and distributed with ill intent, the destabilizing nature of disinformation campaigns is magnified when these individual elements become *narratives*.<sup>23</sup> Narrative is a powerful rhetorical form because it offers a framework for understanding the world through cause and effect, presents characters or agents with whom audiences identify, and charts a pathway to resolve conflicts or grievances. These components combine to evoke emotion and to express values. Of utmost concern to the judiciary are narratives where “justice” occurs outside the judicial system or narratives that say court involvement leads to injustice and unfairness, leading the person hearing the narrative to conclude that the judiciary does not uphold societal values.<sup>24</sup>

The anecdotal evidence provided by the survey respondents points to repeating narrative elements. For example, individual character attacks about specific judges allegedly engaging in criminal or unethical behavior, combined with claims of system-wide malfeasance (e.g., kidnapping and trafficking of children) to establish a narrative in which the judicial system is evil and corrupt, and in which justice is not possible. As such a system has the potential to fuel mistrust

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<sup>23</sup> See *Disinformation Fuels Extremist Narratives*, NJ Office of Homeland Security and Preparedness, Executive Intelligence Brief, May 22, 2020, at <https://static1.squarespace.com/static/54d79f88e4b0db3478a04405/t/5ec83def14b2283a6e4db381/1590181359655/Disinformation+Fuels+Extremist+Narratives.pdf>

<sup>24</sup> *The idea that family courts are biased against men is a dangerous fallacy*, Sonia Sodha, The Guardian, March 5, 2020, at <https://www.theguardian.com/society/commentisfree/2020/mar/05/family-courts-biased-men-dangerous-fallacy-abuse>

in the competency, independence, and virtue of the court system, further investigation collecting primary evidence and conducting deeper narrative analysis is warranted.

The emotionally charged and unfounded claims against the justice system could have a disproportionately negative effect on the public's perception of courts when, in fact, countless court events take place each year in Arizona's courtrooms where controversies are resolved peacefully, opposing parties reach agreements, families are provided stability and direction, victims are heard and receive restitution, and the criminal justice system works to balance community safety and individual accountability.

### **Survey Conclusions**

The first and strongest conclusion the workgroup drew from its survey was that knowledge of disinformation is not consistent across the judiciary in Arizona. This applies to perceptions of the severity of the problem (responses of "no, haven't seen any"), and understanding how to distinguish disinformation from litigants' dissatisfaction and inaccurate reporting.

Further, the survey did not specifically evaluate public trust or mistrust of the judiciary, which was a key concern of the Task Force. However, there is enough anecdotal evidence of activities, events and examples of a type that could be exploited for malicious purposes by disinformation actors, both foreign and domestic. Therefore, additional studies specifically designed to assess the scale of the examples revealed by the survey, as well as studies designed to measure the relative confidence and trust in the judiciary by the general population, are both warranted.

Misinformation can be exploited by disinformation actors, as described by subject matter expert assessments of meddling in the 2016 U.S. presidential election, manipulations of social media (both by foreign actors and domestic groups) related to racial justice protests in 2020, in responses that were seen to the COVID-19 pandemic, and in the lead-up to the 2020 U.S. presidential elections. With the exponential growth of controversial events and responses to them, and the fact that many controversies are resolved by courts, the judiciary is a likely target of future disinformation campaigns. State courts would be wise to invest in the resources to study the problem more thoroughly, using commercial off-the-shelf social listening tools, or commissioning an organization to build custom tools. Such study should measure social media networks and the spread of destabilizing narratives about the judiciary. Such ongoing study would require resources (labor and data and tools) beyond the scope of the Task Force's yearlong term.

**Based on its analysis, Workgroup 1 recommended that the Task Force incorporate the following into their recommendations:**

- a) That the AOC establish education and strategic communication outreach programs, including workshops to educate journalists (Recommendation 2) and advocacy for civic education in schools (Recommendation 1). Numerous examples identified by the survey and subsequent follow-up phone calls indicate there is a lack of awareness or understanding of judicial procedures, jurisdictions, and how these elements of judicial process support democratic and civic values. This knowledge void exists both within the general public and among journalists covering the courts. The strategic communication component should include: regular, repeating, small scale education (e.g., public service announcements) (Recommendation 2); a consistent and active social media presence that announces court actions connecting the court action to the values of the judiciary and upholding the rule of law (Recommendation 2); and the construction of proactive narrative templates for court communication (Recommendation 2).
- b) That the AOC pursue on its own or with outside collaborators, a more extensive academic review of disinformation campaigns targeting courts and the court system, including a disinformation survey of the public and to review research that is being conducted in this area (Recommendation 5). Although the Task Force survey achieved the goals directed in AO 2019-114, it raised other, novel questions. Survey responses indicated that misinformation (as opposed to disinformation) is prevalent, potentially eroding public trust and confidence in the objectivity of courts, not because of malicious intent, but due to a lack of accurate information, consistently delivered.
- c) Further review of the national judge-rating website noted above is recommended and likely requires the resources of an entity outside of Arizona's courts, such as the NCSC or a national/local cohort group (Recommendation 6).

### III. Task Force Recommendations

**Recommendation 1: Redesign the *Our Courts Arizona* (“OCA”) interactive civics program, nominate a court liaison to Arizona’s K-12 statewide educational program committee(s), and expand the judicial branch’s community outreach.**

The Arizona Code of Judicial Conduct, Rule 1.2 requires that judges promote public confidence in the judiciary. In fact, Comment 6 to that rule encourages judges to actively participate in promoting the public’s understanding and confidence in the administration of justice.<sup>25</sup> More than ever, there is a compelling need to remind judicial officers of that requirement and to actively promote their participation.

OCA was initiated in 2014. Its purpose was to be an interactive civics program aimed at adult groups. Its goal was to provide easy to understand, non-partisan, interactive sessions to be taught by current and retired judges. The volunteer judges were to engage audiences and provide information about the importance of fair, impartial, and accessible courts and the rule of law.

The participation in this worthwhile program has waned over the years. Currently, the program consists of a webpage<sup>26</sup> explaining what the program offers and a link to the “Our Courts Arizona Request” form.<sup>27</sup>

A staggering number of Americans are poorly informed about civics, the courts and basic constitutional protections. It is widely recognized that a significant portion of Americans are ill-informed of the precious protections and democratic processes we enjoy. “Protecting the rights guaranteed by the Constitution presupposes that we know what they are. The fact that many don’t is worrisome. [...] These [survey] results emphasize the need for high-quality civic education in the schools and for press reporting that underscores the existence of constitutional protections.”<sup>28</sup>

“The Center for the Study of the American Dream at Xavier University reported that just 64 percent of native-born Americans could pass the naturalization test immigrants must take to

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<sup>25</sup> <https://www.azcourts.gov/portals/137/rules/Arizona%20Code%20of%20Judicial%20Conduct.pdf>

<sup>26</sup> <https://www.azcourts.gov/ourcourtsaz>

<sup>27</sup> <https://www.azcourts.gov/Portals/196/OurCourtsArizonaRequest.pdf>

<sup>28</sup> *Americans Are Poorly Informed About Basic Constitutional Provisions* (Quoting Kathleen Hall Jamieson), Annenberg Public Policy Center of the University of Pennsylvania, Sept. 12, 2017.

<https://www.annenbergpublicpolicycenter.org/americans-are-poorly-informed-about-basic-constitutional-provisions/>. See also, *Promoting Civic Literacy and Engagement during the COVID-19 Pandemic*, March 23, 2020. <https://politicalscienow.com/promoting-civic-literacy-and-engagement-during-the-covid-19-pandemic/>

become a US citizen. Immigrants applying for citizenship pass the simple civic literacy test at a rate of 97.5 percent...”<sup>29</sup> Without a working knowledge of how government operates, it is not surprising that efforts to discredit it are increasingly successful. A well-informed citizenry is essential to countering disinformation; particularly, with respect to this nation’s cherished, yet fragile, democracy.

Experts agree that “U.S. democratic institutions are being attacked from external as well as internal forces, posing a national security threat that can no longer be ignored.”<sup>30</sup> The Task Force was fortunate to hear from Suzanne Spaulding<sup>31</sup> and Elizabeth Rindskopf-Parker,<sup>32</sup> two national security experts who have been researching how adversaries use cyber and cyber-enabled disinformation operations to undermine democratic institutions like the justice system.<sup>33</sup> Spaulding described the forces that are actively attacking U.S. institutions, particularly the justice system. As Rindskopf-Parker succinctly stated, “[t]he threat to democracy in our civic education is one we need to take seriously. Disinformation is designed to undermine our political system.”

Initially, a Task Force workgroup assigned to “propose approaches to public education and communication that accurately reflect the roles and processes of courts” focused on how to revitalize, promote and broaden the audience for OCA. However, after numerous meetings with teachers, leaders and experts in the fields of civic, government, and social studies education, it was discovered that there are currently many different organizations already offering excellent opportunities virtually identical to the mission of OCA.<sup>34</sup> Consequently, while investigating how to revitalize OCA, it became clear that the best way to achieve its goal of providing “... a refresher... [to] some of the cornerstones of our democratic form of government, our rights, and the importance of separation of powers... [and to]... address these issues in an interactive way and to encourage further thought and discussion about the topics addressed”<sup>35</sup> would be to support the

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<sup>29</sup> <https://youtu.be/xJFuOF04wss>

<sup>30</sup> *Disinformation, poor civic literacy imperil U.S. democracy*, ABA Midyear Meeting, Feb. 17, 2020, at <https://www.americanbar.org/news/abanews/aba-news-archives/2020/02/deepfakes-democracy-and-courts/>

<sup>31</sup> Suzanne Spaulding currently serves as Senior Adviser for Homeland Security and Director of the Defending Democratic Institutions Project at the Center for Strategic and International Studies (CSIS). She also serves as a member of the Cyberspace Solarium Commission. Prior to joining CSIS, she was Undersecretary at the Department of Homeland Security.

<sup>32</sup> Elizabeth Rindskopf-Parker is Dean Emerita of the University of the Pacific McGeorge School of Law. She has previously served as CIA and NSA General Counsel, and Executive Director of the State Bar of California.

<sup>33</sup> *Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System*, Center for Strategic & International Studies, Suzanne Spaulding, May 1, 2019, at <https://www.csis.org/analysis/beyond-ballot-how-kremlin-works-undermine-us-justice-system>

<sup>34</sup> For a sample list of organizations primarily based in Arizona, see Appendix E.

<sup>35</sup> See “What is Our Courts Arizona?” at <https://www.azcourts.gov/ourcourtsaz>

many organizations already performing this immensely important endeavor. The areas in which these organizations are overwhelmingly in need of support and assistance are:

- a) Marketing their availability (“getting the word out”) to teachers, principals, organizations’ leadership, parents, students, etc.;
- b) Recruiting of subject matter experts; and
- c) Content creation.

In 1978, the State Bar of Arizona created the Arizona Foundation for Legal Services & Education (“AZFLSE”),<sup>36</sup> charging it with the mission of promoting access to justice for all Arizonans. Part of the way AZFLSE strives to fulfill this mission is by preparing Arizona’s youth for civic responsibility. AZFLSE is one of the organizations that is actively involved promoting civic education.

During one of many Workgroup meetings, two speakers enthusiastically expressed the need for support and assistance in the above-mentioned areas. Tammy Waller,<sup>37</sup> Director, Social Studies and World Native Languages, Arizona Department of Education, expressed that an opportunity for coordinating courts with schools and pairing history and civics with real-world court experiences would be of immeasurable value.

Jennifer Castro,<sup>38</sup> Senior Director, AZFLSE, also offered many ideas of how OCA could be a valuable partner in this critical area of education. She indicated that some of the areas where they could use help are:

- a) **Judicial Presence:** Volunteers are needed for mock trials and other court-related events and programs. She explained that having people who work in courts there, particularly judges, makes a difference and lets the public see court representatives outside of the courthouse.<sup>39</sup>

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<sup>36</sup> <https://azbf.org/>

<sup>37</sup> Tammy Waller is the Director for K-12 Social Studies and World and Native Languages at the Arizona Department of Education.

<sup>38</sup> Jennifer Castro is the Senior Director of Education Programs at the Arizona Foundation for Legal Services and Education providing direction for the Foundation’s civic and law-related trainings.

<sup>39</sup> It is noteworthy that there are several organizations that coordinate Mock Trial Programs like “Court Works,” led by Judge Mary Muguia of the 9<sup>th</sup> Circuit Court of Appeals. The recommended redesign team can be a conduit to coordinating volunteers for those different programs.



- b) **Outreach:** Classrooms and school leadership often do not know what resources the courts can provide. One of the efforts the “redesign team” should explore is how to promote educational programs. None of the organizations contacted during the Task Force’s work had a Public Information Office. A link on the AOC or supreme court’s website, or a tweet mentioning an event, can help with outreach and promotion.
- c) **Subject Matter Experts:** This is an area where OCA could be of invaluable assistance. Many members of the judicial branch want to be a resource to schools and teachers. There are judges, attorneys, court administrators and staff who have a wealth of knowledge who can be exceptional resources to the educational system. The real-world institutional knowledge of those who can participate will greatly benefit the community. For those who want to volunteer but who are not regular public speakers, there is an opportunity to assist as well. For example, LawforKids.org<sup>40</sup> has questions posted by students about courts and their role in society and the community. Those questions are going unanswered, which creates an opportunity for those who want to participate in other ways. Given the circumstances schools are experiencing due to the COVID-19 pandemic, teaching “... institutions are under rising pressure to increase the number and variety of online [opportunities].”<sup>41</sup> For those whose schedules previously did not afford the time, or whose location made it difficult to travel to presentation locations, remote/virtual options are available. The methodology of teaching and presentations is rapidly evolving toward the virtual platform, which will facilitate participation.
- d) **Liaisons:** A representative of the judiciary would be a valuable asset on the boards of the Arizona Council for Social Studies, or the Arizona Department of Education’s Civic Education and Community Engagement Program, or any other body whose mission fits well with the mission of the OCA. Presenters Waller and Castro enthusiastically requested a judicial branch presence on the aforementioned bodies.

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<sup>40</sup> <https://lawforkids.org/>

<sup>41</sup> *Promoting Civic Literacy and Engagement during the COVID-19 Pandemic*, March 23, 2020, available at <https://politicalsciencenow.com/promoting-civic-literacy-and-engagement-during-the-covid-19-pandemic/>

**The Task Force recommends:**

1. That the AOC empanel a “redesign team” to redesign the structure of OCA and develop ways to best leverage OCA to provide support and assistance to the many organizations that offer civics education resources throughout the state. It is recommended that the “redesign team” be comprised of members who reflect diversity of judicial experience on and off the bench and diversity of educational and presentation experience. For example, the team should include diverse representation from rural, metro, Limited Jurisdiction, General Jurisdiction, Tribal and Appellate courts; current or retired judicial officers; court administrators or other executive leadership. The redesign team should develop and implement a structured, standing OCA committee, with the mission of collaborating with other agencies that offer similar educational opportunities and include a method to track and efficiently coordinate the actions of OCA, such as speaking engagements, mock trial assistance, trainings, and presentations;
2. That the redesigned OCA recommend a liaison to the Arizona Council for Social Studies and the Arizona Department of Education’s Civic Education Community Engagement Program or any other body whose mission fits with the mission of OCA; and
3. That OCA coordinate with K-12 schools, universities, community groups, and other youth and adult programs to present information about courts, the judicial branch, and how media literacy protects democracy.

**Recommendation 2: Establish in-person and web-based court contacts and outreach to help the public and the media understand the role of the court and the function of the judicial branch, and to help counteract and respond to disinformation at the local level.**

AO 2019-114 asked the Task Force to consider methods of communication that would enhance and reflect the roles and processes of courts. Chief Justice Brutinel’s message in his strategic agenda, “*Justice for the Future, Planning for Excellence*” emphasized the importance of the courts’ need to “identify and address concerns or issues that may affect the public’s trust and confidence in our justice system.” In this recommendation, the Task Force addresses methods by which the judicial branch can enhance public awareness, including through online resources, social media, and court-led learning events for the media.

In today's environment of misinformation and disinformation, courts must increase outreach and transparency to restore or maintain the public's confidence. Courts must understand the rapidly-evolving information environment, including the news media, social media, and how the courts are affected by this discourse. Courts must deliver timely, impartial justice, objectively and professionally, and ensure that the process is visible and accessible. The NCSC is training state courts to develop playbooks for detecting and responding to disinformation and Arizona's courts are encouraged to take advantage of this training.

Courts are encouraged to offer the public, especially those who enter the legal process without legal counsel, access to understanding their basic rights and responsibilities through simplified, user-friendly, easily accessible, legal information. Courts should take time to ensure that communities learn or remember the vital role the judiciary plays in society. It bears reminding here that judicial officers are encouraged to explain their decisions thoroughly and in plain English, particularly in controversial or high-profile cases, as those are opportunities to reach and inform large numbers of the public.

### **Hire or Designate a Court Public Information Officer (“PIO”)<sup>42</sup>**

As George Bernard Shaw said, *“The single biggest problem with communication is the illusion that it has taken place.”* Countering disinformation requires that accurate information is both sent to and received by enough people who received the disinformation. A designated court PIO helps ensure that a court's information is available to the public.

Court PIOs connect with a diverse population: the public; the media; court participants; attorneys, judges, and court staff; justice partners and their information officers; law enforcement and more. They respond to public records requests, manage the court's website and social media accounts, arrange interviews, coordinate media coverage, and support the delivery of information to court users, reporters, justice partners, and the public. They provide public relations, emergency and crisis communication, and ongoing outreach.

Much of the public's knowledge of the court system comes through the media. Although often not intentional, media coverage of the justice system is not always precise or accurate, and

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<sup>42</sup> For this Report, “PIO” refers to the person or department designated to perform the functions included here. Common titles include Communications Counsel, Communications Director, Community Outreach Coordinator, and Communications Specialist. In some courts this is the presiding judge, court administrator, or clerk of court.

important details can be overlooked in the media’s rush to be the first to report a story, or due to deadlines or the limited word space available. Inaccuracies are part of the difficulty of countering disinformation; at the center of a disinformation snowball is a snowflake of truth.

In years past, “beat” reporters became familiar with law and procedure. Today finds far fewer specialists in newsrooms; most reporters cover multiple subject areas and work as writer, editor, producer, and camera operator as a multimedia journalist. It is increasingly rare that a reporter has the time to understand legal jargon, processes, and complex court rulings, particularly for breaking news. Reporters can be rushed to produce, publish, and tweet and might not have the time or discretion to return to a story, even though additional information would add context or provide clarity.

Inaccurate reporting damages the public’s perception of courts and can be the basis for disinformation. PIOs answer questions, ensure the media understands essential information, and provide enough factual background to allow the most inexperienced journalist to tell an accurate, well-rounded story. PIOs ensure that information about a court is correct, timely, and meaningful, and follow up with the media when inaccuracies are reported.

A PIO can monitor for look-alike websites or social media accounts created to deceive the public into thinking they are official court websites or accounts. While some accounts can be protected expressions of comment, criticism, or satire, courts have experience with accounts intended to scare or intimidate unsuspecting individuals into paying money, believing they are resolving a traffic ticket, warrant, or other court matter for themselves or others, only to learn they were scammed through an official-looking, but unofficial internet presence.

In Arizona, courts without a designated PIO can contact the AOC’s PIO, contact another court that has a designated PIO, and can contact the Conference of Court Public Information Officers (“CCPIO”),<sup>43</sup> a nationwide court PIO organization, for help with creating communications and responding to local situations. Additionally, some courts may have resources in their local government. Many jurisdictions—cities and counties alike—employ a PIO or communications team who share resources with their local court in responding to information requests and in posting website material. Although these partnerships are helpful, the different branches of government must be clear regarding who is the records custodian and, to avoid inadvertent violations of court ethics rules, who is authorized to provide court responses.

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<sup>43</sup> <https://www.ccpio.org/contact-us/>

## **Establish and Maintain a Court-Based Website**

The public relies on the internet for information. According to an April 2020 study by Datareportal,<sup>44</sup> “4.57 billion people now use the internet, an increase of more than 7 percent” since April of 2019. A court-specific website or webpage can transform how the public understands and interacts with courts and the justice system. Likewise, Jesse Rutledge, NCSC Vice President for External Affairs,<sup>45</sup> presented the Task Force with key findings from the 2020 *State of the State Courts* survey, including research showing that most Americans have little knowledge of courts. The sources individuals are most likely to consult for information, and the sources they trust the most, showed high reliance on a court’s official website, traditional media, and personal relationships. Younger Americans are much more likely to both turn to and trust social media.<sup>46</sup>

Individual court websites are the authoritative source of information for the media. Reporters seeking information, records, or verification for articles should be able to easily find answers to their frequently asked questions. When reporters cannot find what they need, a court’s website should make it easy for them to find the PIO’s contact information.

Court websites are often the first stop for those who need legal information, protective orders, resolution of disputes, and answers to basic legal questions. A well-designed website helps the public with their legal matters by providing accessible, understandable information and by making that process efficient, thus promoting trust and confidence in the justice system.

There is a continuing demand for access to justice through official, court-provided instructions and forms. For the ever-increasing numbers of self-represented litigants, a well-designed website with 24/7 access to legal resources is the proverbial “light at the end of the tunnel.” It provides a higher quality of justice and access to courts. Convenient access to legal resources helps ensure court customers feel recognized, and, no matter the outcome of their dispute, that they receive helpful, unbiased information.

Websites should be mobile-device friendly, searchable, engaging, and accessible. Information about the court and available legal services should be presented in direct, plain language<sup>47</sup> and, when possible, use visual aids to help explain complex legal concepts.

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<sup>44</sup> <https://datareportal.com/reports/digital-2020-april-global-statshot>

<sup>45</sup> <https://www.ncsc.org/staff-directory/staff/jesse-rutledge>

<sup>46</sup> See the National Center for State Courts’ 2020 survey at [www.ncsc.org/survey](http://www.ncsc.org/survey)

<sup>47</sup> <https://nacmnet.org/resources/publications/guides/plain-language-guide/>

In addition to English-language documents, websites, and information, courts should ensure that content is available in alternative languages that meet their communities' needs. Vital documents and information must be provided in alternative languages.<sup>48</sup> For example, the Arizona Supreme Court includes a Spanish language self-service portal<sup>49</sup> on its website that other courts can link to, ensuring Spanish language help is available.

Many courts have established their websites through their local municipal or county platform. Courts without the ability to host their own website should ask their local city, town, or county to provide a webpage on their website. This court-specific webpage should minimally provide the individual court's most vital information, including a "contact us" link, protective order information,<sup>50</sup> and provide direction on accessing specific case information. Local court websites should leverage the work already done by pointing users to the Arizona Supreme Court/AOC site<sup>51</sup> and to the Arizona Court Help website.<sup>52</sup>

### **Establish a Social Media Presence**

The effective and popular medium of social media is today's de facto communication device. Its uniquely strong influence on individual action has made its mark on society, while its immediacy of information is both its strength and weakness. The same Datareportal study mentioned above notes an anticipated "50 percent global penetration rate" in social media use by the end of 2020. Courts not engaged on one or more social media platforms ignore the public's communication preference and limit the courts' ability to share information or correct disinformation.

The aspects that make social media attractive, including instant communication and photo and video sharing, also allow disinformation to spread quickly. Groups and individuals work endlessly to shape opinion in ways that serve their interests. These groups and individuals can, among other things, imperil the rule of law. One thing courts can do to avoid confusion is to secure a court's name on different social media channels. For example, even if a court does not use the social media outlets, securing the "@ABCCourt" handle on Twitter or Instagram, or the Facebook

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<sup>48</sup> Limited English Proficiency mandates are not covered extensively in this report but must be followed by all courts. For an introduction, see <https://www.lep.gov/>

<sup>49</sup> <http://www.azcourts.gov/elcentrodeautoservicio/>

<sup>50</sup> <https://azpoint.azcourts.gov/>

<sup>51</sup> <https://www.azcourts.gov/>

<sup>52</sup> <https://azcourthelp.org/> hosted by the Arizona Bar Foundation, which provides links to forms, webinars, legal aid options, live chat forums, and more.

page name for a court prevents an outside group or individual from claiming those social media sites and using them to spread disinformation.

Courts must be mindful of the public's First Amendment protections while meeting the public where they are—on social media. This helps courts stay relevant in the public's view, while providing a platform to timely respond to inaccurate information. Social media allow courts to provide the public with accurate information. Years of experience demonstrate that courts can use social media within the bounds of applicable codes of conduct.

Like other government institutions, the judicial system is increasingly subject to scrutiny and, at times, to unjustified, inaccurate criticism. One way to counter misinformation and disinformation campaigns against courts and judicial officers is to have an outlet for precise, accurate, and up-to-date rapid responses. Social media platforms provide that ability, and more. In this time of reduced civics engagement, a social media presence helps courts inform and educate the public.

Social media help courts remind the public of the courts' role in society by sharing positive stories about the community the court serves, opening the doors of justice to more individuals, and making a more personal connection between the judiciary and the public. Additionally, social media are used to provide emergency information such as court closures, notices of job openings, updates on high-profile cases, news releases, pointing the public to legal resources and responding directly to disinformation and other statements that are objectively false. Courts with the resources can maximize the "social" aspect of social media by interacting with the public, rather than simply posting information.

According to a 2012 article in the Huffington Post,<sup>53</sup> between December 2009 and December 2010, web-based email use by those ages 12 to 17 years of age declined 59 percent. Most young adults (and increasingly older adults) get their news and communicate by text, Facebook, Twitter, and other social media platforms. Courts must acknowledge the move from traditional journalism (network television, newspapers, radio) to web-based news outlets (e.g. Google, Twitter, Facebook). And courts benefit from taking an active role in providing helpful and correct information about the judicial system. Courts may consult the NCSC's website for a step-

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<sup>53</sup> [https://www.huffpost.com/entry/teens-email-use-study\\_n\\_1268470](https://www.huffpost.com/entry/teens-email-use-study_n_1268470)

by-step guide to setting up a social media account on Facebook,<sup>54</sup> and for ways to explore the use of social media in the courts,<sup>55</sup> review social media policies from courts nationwide, and more.

The Task Force learned that surveys show word choice matters when countering disinformation. Courts can effectively remind the American public of what unites us, despite efforts by others to divide us. Courts are encouraged to use language of shared American values and the importance of democratic institutions when addressing disinformation.<sup>56</sup> Likewise, the Task Force reviewed a 2018 publication of the American Bar Association (“ABA”) that contained information from more than 30 years of research into these topics. The ABA’s materials recommend procedures for rapidly responding to misleading information and unfair criticism, with guidance on how websites and social media platforms can be used effectively in responding to these events.<sup>57</sup>

### **Host Educational Roundtables for Reporters**

Each year the Florida Bar Media and Communications Law Committee hosts a two-day “Reporters’ Workshop” for “print, TV, radio and online journalists new to the courts and legal beats, or new to Florida.”<sup>58</sup> This has proven effective in ensuring media more accurately reports on the law and legal processes. Courts in Arizona are encouraged, either independently or through collaboration with other courts and the Arizona or local bar associations, to arrange a shorter workshop for its media, two to four hours in length, twice a year or quarterly. These workshops would introduce new journalists to the courts while providing a refresher for veteran reporters and can be held in-person or through a virtual platform such as Microsoft Teams or Zoom.

Court/media workshops would introduce the court system, familiarize journalists with policies and procedures of the courts, introduce them to the basics of the law and its terms of art, provide information about the flow of a case and researching court files, and help ensure they better realize the humanity that exists behind every court participant, proceeding, and court decision.

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<sup>54</sup> <https://www.ncsc.org/topics/media/social-media-and-the-courts/social-media/social-media-101>

<sup>55</sup> <https://www.ncsc.org/topics/media/social-media-and-the-courts/social-media/legal-use-of-social-media>

<sup>56</sup> See the National Center for State Courts’ 2020 Survey at page 8: <http://www.ncsc.org/survey>

<sup>57</sup> See the American Bar Association’s 2018 publication, “*Rapid Response to Fake News, Misleading Statements, and Unjust Criticism of the Judiciary*” at <https://www.americanbar.org/content/dam/aba/administrative/american-judicial-system/2018-rapid-response-to-fake-news.pdf>

<sup>58</sup> <https://www.floridabar.org/news/resources/reporters-workshop/>



Workshops would help courts ensure that those who report on courts are informed of basic court proceedings and provide information about rules that govern restrictions on access to the court or to certain court records. Sessions should explain how the media gain access to proceedings, share tips for reporting on high-profile cases, and provide the methods by which journalists access case information. These sessions would also provide an opportunity to meet and ask questions away from the immediacy that a court decision, temporary restraining order, jury verdict, or trial sentencing requires.

Regularly scheduled media workshops invite the free flow of ideas, including the court's need to maintain neutrality and judicial impartiality in pending cases. The benefit of a more informed media lies in their ability to more accurately and effectively deliver legal news, fulfilling their important and constitutionally protected role of educating and informing the public.

### **Produce Outreach Materials**

As other sections of this report make clear, the public will discuss courts with or without input from the courts. Courts must be involved in those discussions and have answers to questions. Written materials, videos, telephone on-hold messages, methods for contacting courts, and a mini guide to recognizing misinformation and disinformation as it applies to the judiciary are tools courts can provide to the public.

Courts have direct contact with the public through jury service, court-provided documents, court websites, social media, educational outreach events, and more. In providing the recommendations in this section, the Task Force's focus remained on the role of courts in society and the public's need for access to justice and for accurate information about courts. The following recommendations are meant to stimulate and invite debate, and to enable a robust and cohesive court education and response system. The recommendations will advance the community's understanding of courts and ensure that courts have consistent ways to provide information and to address disinformation campaigns that target courts, judicial officers, or the rule of law.

### **The Task Force recommends:**

4. That individual courts designate a person or people to serve the function of a PIO who will be the liaison between an individual court and its judicial officers, court employees, local justice partners, the media, and the public;

5. That every court establish and maintain a court-specific website or webpage to provide accurate information and access to justice 24 hours a day, 7 days a week through local or statewide resources;
6. That every court establish and maintain at least one social media account, such as Facebook, Twitter, Instagram, or YouTube, to keep the public and media informed about court events; to notify the community quickly and efficiently in emergencies; and as a tool to timely counteract disinformation, to provide accurate information, and to help the public better understand court policies and procedures. Even if an individual court cannot immediately use these social media channels, it should secure them to prevent the name being taken by others.
7. That the AOC conduct court-led learning events for the media and that individual courts do so to the extent possible.
8. Producing court-based educational videos regarding media literacy and misinformation and disinformation in the courts and justice system. The videos could be aired to prospective jurors, placed on court websites, distributed through social media, broadcast for tour groups or at court-based speaking engagements, and provided to schools. The production of these videos could be through the AOC, the AZFLSE, individual courts, grant-funded projects, or others' content approved for republication.
9. That, where available, courts include media literacy messages on their telephone on-hold messages. For example, encouraging listeners to contact courts directly to verify information.
10. Preparing a court employee guide giving suggestions for when and how to respond to disinformation and identifying when responding might accentuate or further broadcast inaccurate information and cause more harm or confusion than good. Resources for producing this include a court's internal education and training division, if any, the AOC's education services division, the NCSC, or CCPIO.

11. That courts have a way by which the public and court staff can offer feedback on what they find troubling, misleading, or inaccurate about a court or its procedures. A designated court staff member, in consultation with judicial leadership,<sup>59</sup> should resolve legitimate concerns and use the opportunity to clarify the fundamental concept of the role of justice and courts in society. An anonymous submission option is recommended.
  
12. That the AOC create a court-based “playbook” incorporating the concepts in this Report. Like a continuity of operations plan, this playbook could include sample response language, templated “letters to the editor,” guidance for social media postings, guidance on interacting with the media in response to a disinformation incident, and contact information for the AOC, NCSC, local bar associations, CCPIO, ABOTA, and others. Information from the playbook could be taught in judicial education classes and included in learning materials. Arizona’s playbook should incorporate work done in this field by the NCSC and the ABA’s 2018 publication, *Rapid Response to Fake News, Misleading Statements, and Unjust Criticism of the Judiciary*<sup>60</sup> which contains tips and recommendations for responding “rapidly and appropriately” to “inaccurate, unjustified, and simply false criticism of judges.”
  
13. Incorporating information from the resources in this Report into an online and print mini guide to recognizing misinformation and disinformation as it applies to the judiciary. The mini guide should be made available at law libraries and public libraries, self-help centers, and through community partners. It should provide tips for researching and verifying information received through social media and daily news broadcasts and publications, online or otherwise. A helpful outline for developing a mini guide appears in Jeanne Mejeur’s 2013 article, *How to Score a Perfect 10*.<sup>61</sup>
  
14. That where individual courts can do so, they develop and implement court-wide standards and guidelines for court documents and communication, commonly called “branding” or

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<sup>59</sup> “Judicial leadership” here refers to an individual court or department’s executives. These could be the presiding judge, an elected clerk, directors, chief probation officers, or others.

<sup>60</sup> <https://www.americanbar.org/content/dam/aba/administrative/american-judicial-system/2018-rapid-response-to-fake-news.pdf>

<sup>61</sup> From the National Conference of State Legislatures:

<https://www.ncsl.org/Portals/1/Testing%20the%20Credibility%20of%20Sources.pdf>

“brand identity.” Branding provides a consistent, unique collection of fonts, colors, and seals applied to court-provided communication. Branding makes fake or fraudulent documents and records easier to identify as inconsistent with court standards. A city or county’s communications division can often help the court design its branding.

15. That the AOC and individual courts add prominent language to standardized court forms and other court-produced documents directing people to verify information from official court records. For example, a header or footer with language such as: “To verify the accuracy of this document, contact the court named above/below.”

**Recommendation 3: Modify the Arizona Code of Judicial Conduct (“ACJC”) to specifically address personal attacks against judges.**

The ACJC should be amended to affirmatively state that a judge, whether elected or appointed, or the judge’s designee, may respond to attacks on the judge’s actions, character, or reputation from whatever source in writing, via social or broadcast media or otherwise, so long as the response otherwise complies with the Code’s requirements. This recommendation conforms to ACJC Rule 4.1, where Comment 9 specifies that during a campaign for judicial office, candidates may respond directly to false, misleading, or unfair allegations made against him or her during a campaign. Likewise, Comment 3 to Rule 4.3 specifically authorizes judicial candidates during a campaign to make a factually accurate response to false or misleading allegations. The most likely place for this addition is to ACJC Rule 2.10 and the comment following it.

**The Task Force recommends that the following Rules be amended as follows in underline:**

16. Rule 2.10(E):<sup>62</sup> *Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge’s conduct in a matter or to false, misleading, or unsubstantiated allegations or attacks upon the judge’s reputation from whatever source in writing, via social media or broadcast media or otherwise.*

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<sup>62</sup> ACJC Rule 2.10(E):

<https://www.azcourts.gov/portals/137/rules/Arizona%20Code%20of%20Judicial%20Conduct.pdf>

17. Rule 2.10,<sup>63</sup> Comment 3: *Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connections with allegations concerning the judge’s conduct in a matter or to false, misleading, or unsubstantiated allegations or attacks upon the judge’s reputation.*

**Recommendation 4: Establish a “Rapid Response Team” to address situations where disinformation targeting a judicial branch individual, a court, or a court system occurs and publish a comment to the ACJC Rule 2.10 to provide guidance as to how and when such instances should be addressed.**

The Task Force meetings included plentiful and robust discussions surrounding what constitutes “disinformation.” Those debates were mindful and protective of the cherished First Amendment protections of freedom of speech and of the press. The definition of disinformation adopted by this Task Force reads as follows:

*“False, inaccurate or misleading information that is deliberately spread to the public with the intent to undermine the democratic process, sow discord, profit financially, or create distrust of government institutions or public officials. Disinformation should not be confused with misinformation, which is false information shared by those who do not recognize it as such, or with legitimate criticism, protest or censure of government actions, institutions or processes.”*

Judges are tasked with maintaining the dignity of the judiciary and their words and actions are essential to promoting public confidence. “A judge shall not be swayed by partisan interests, public clamor or fear of criticism.”<sup>64</sup> For good reason, there is an historic and traditional reluctance by judges to respond to statements or publications of criticism. Criticism is inevitable and understandable in an adversarial system. However, “disinformation” is not criticism as defined above. The most challenging aspect of identifying misinformation from disinformation is divining the speaker’s intent. Even statements that are demonstrably and factually false can be honestly

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<sup>63</sup> ACJC Rule 2.10, Comment 3:

<https://www.azcourts.gov/portals/137/rules/Arizona%20Code%20of%20Judicial%20Conduct.pdf>

<sup>64</sup> See ACJC Rule 2.4(A) through link above.

believed by the person making the statements. As a result, individuals and the court system will periodically be able to respond to statements that span a wide range of objective accuracy. In those instances that qualify as “disinformation” directed at a court or judge, there should be a method to respond.

It is noteworthy that, when related to a pending or impending case, Rule 2.10 of the ACJC specifically prohibits certain public statements by a judicial officer or a third party. Rule 2.10(E) of the ACJC does allow a judge to “respond directly or through a third party to allegations in the media or elsewhere concerning the judge’s conduct in a matter.” However many, if not most, judges are hesitant to respond in such a manner. Their reluctance may be based in history, tradition or it may just be an unfamiliarity with how to judiciously respond while staying within the boundaries set by the ACJC.

Allowing disinformation to occur unchecked can be destructive to the truth and reality. This can lead to mistrust of the judiciary, erode confidence in the courts, and ultimately pose a threat to the rule of law and democracy. Whatever the reason that judges may decline to respond to “disinformation,” in those instances where a response is necessary, one should be disseminated. When a response to disinformation is necessary, the size of a judge’s jurisdiction and the resources available may determine whether a proper response is possible. A smaller jurisdiction is unlikely to have a communications department, a public information officer, or even a court administrator to coordinate a response.

One inherent aspect of technology, and particularly social media, is its ability to spread information rapidly. This ability for a message or statement to “go viral” and reach thousands or millions of people in moments is only amplified by those with artificial intelligence or networked accounts that can exponentially increase the distribution of a message. Court systems and government in general have not adapted to this pace of rapid identification and resolution. Once disinformation is identified, a rapid response may be required.

A Rapid Response Team would be a collaborative, cross-disciplinary group of individuals capable of identifying the attack and providing a response campaign within the jurisdiction’s professional guidelines. The Task Force was not unanimous in the Rapid Response Team recommendation, with some voicing concerns about the importance of public perception around the makeup of a Rapid Response Team and that it should reflect a balance of members, so as not to create conflicts of interest. Other concerns included a need for an AOC or court-based liaison to be aware of rapid responses.

**The Task Force recommends:**

18. That a Rapid Response Team be coordinated through a law school clinic, bar association, or other entity familiar with court-related issues and that would be in contact with courts and judicial branch individuals, but with independent authority and controls. The recommended makeup of a Rapid Response Team would include attorneys; public, non-attorney members; academics; members of the media; court public information officers or the clerk, administrator, or other designee who fills this role; and retired judges; or other disciplines as appropriate.
19. That a comment to Arizona Code of Judicial Conduct Rule 2.10 should be published to provide guidance as to when and how such instances should be addressed. (See Recommendation 3 above).

**Recommendation 5: Establish a Local/National Disinformation Study Network**

Because of its year-long study, the Task Force recognizes a need to study the phenomenon of unfounded attacks on the judiciary over a more sustained period and as part of an effort that is both local and national. Participants would jointly agree on the time needed for the study, for example two or three years, and agree to report back with data-driven and anecdotal findings on the prevalence of anti-judge and anti-court disinformation in the states and in the United States generally. The Task Force believes that such an effort will provide more complete and detailed information and a more accurate understanding of the methodology of anti-judiciary disinformation campaigns designed to undermine the rule of law. The Task Force did not presume that any one state court system could fund or conduct the study without the assistance and cooperation of others.

**The Task Force recommends:**

20. That the AOC encourage and seek the participation of the NCSC to investigate the scope and the possibility of establishing a multi-state Local/National Disinformation Study Network consisting of cooperating groups from several states.

**Recommendation 6: Establish a national, centralized point of contact to assist in identifying disinformation and having it flagged or, if warranted, removed while respecting the expression of individual opinions and the exercise of First Amendment rights.**

Disinformation, such as verifiably incorrect or inaccurate information presented and disseminated to intentionally deceive the public, erodes trust in the courts, puts democracy at risk, and frequently supports extreme, radical viewpoints and ideas. Inaccurate or biased information, articles, or commentary, often circulated and forwarded online, generate conflict and distrust in the justice system both within individual communities and within the greater society.

An individual, an individual court, and a state court system, invariably lacks the ability to quickly reach a liaison at a large social media or website provider for the review, flagging or, if warranted, removal of disinformation. Attempting to do so on a case-by-case basis could also be taxing for courts and the social media or website providers. The Task Force recommendation envisions the NCSC as a single point of contact, or a liaison between courts and social media platforms.

AO 2019-114 suggested the Task Force consider a “centralized point of contact” that could “assist in identifying disinformation.” This point of contact could act as an ombudsman, supporting Arizona courts in responding to disinformation, flagging content for additional review or with a warning label, or removing disinformation when warranted, such as statements that could cause public harm.

The Task Force determined that timely intervention, the addition of a warning message to erroneous communications and, in some instances, the removal of disinformation, and the distribution instead of credible information by an influential, accountable, and trusted court partner would promote transparency, help courts preserve their integrity, and validate the accuracy of processes and statements. For this, the Task Force looked to the NCSC, a nonpartisan, non-profit research and consulting organization known for its collaborative work with the Conference of Chief Justices and the Conference of State Court Administrators, among others.

A Task Force workgroup first spoke with Jesse Rutledge, NCSC’s Vice President for External Affairs, in January of 2020, to determine the NCSC’s interest in pursuing such an undertaking. In conjunction with Rutledge’s positive feedback, the workgroup invited him to speak to the entire Task Force regarding the NCSC’s proposed methods for responding to the threat to courts and democracy posed by an unchecked proliferation of disinformation.



At the March 2020 meeting, Rutledge noted the NCSC had previously begun researching circumstances under which they could help the nation’s courts respond to propaganda, develop a collective voice, and establish lines of communication between courts, stakeholders, public authorities, and media, both traditional and social. The Task Force voiced its opinion that Arizona courts should work together with the NCSC to forge and offer consistent policies and processes to address disinformation in Arizona’s courts and legal system. If this collaboration comes to fruition, the NCSC will provide direct assistance to courts by creating a program designed to respond to disinformation, not only on behalf of Arizona, but for courts nationwide.

The Task Force further identified ABOTA, a non-partisan national association of trial lawyers and judges, as a potential collaborator. Information available online notes that ABOTA “defends judges who cannot publicly respond to criticism due to ethical prohibitions.” Further, they provide “information to enable the public to understand legal problems facing our justice system when judges cannot defend themselves,” and work “to maintain and support public confidence in the judiciary by providing timely assistance to members of the bench in responding to potentially damaging publicity.”

One ABOTA resource available online is “Protocol for Responding to Unfair Criticism of Judges.”<sup>65</sup> This protocol addresses ABOTA’s mission to “establish guidelines for each chapter of ABOTA” to “formulate and provide responses to misinformation.” ABOTA has chapters in Tucson and Phoenix.

**The Task Force recommends:**

21. That the AOC extend its partnership with the NCSC and establish a workgroup specifically tasked to work with them in this critical endeavor.
22. That the AOC partner with ABOTA in countering disinformation in Arizona’s courts.
23. That Task Force members stay involved in the work required to bring the NCSC, ABOTA, and Arizona’s courts together in establishing and pursuing these efforts.

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<sup>65</sup>[https://www.abota.org/Online/Resources/Judicial\\_Independence/Online/Resources/Judicial\\_Independence.aspx?hkey=03a0c0f8-1977-45f2-98ba-e0149ba44cd3](https://www.abota.org/Online/Resources/Judicial_Independence/Online/Resources/Judicial_Independence.aspx?hkey=03a0c0f8-1977-45f2-98ba-e0149ba44cd3)

**Recommendation 7: Monitor technology and resources that can identify disinformation campaigns early enough to counter them with accurate information and gather public contact information to improve courts’ outreach and responsiveness.**

The Task Force conducted a thorough review of available technology resources that could specifically identify disinformation campaigns early enough to counter them with accurate information. A Task Force workgroup conducted its own research into technological innovations in disinformation, conferring with various former intelligence officials, academics, and other experts in identifying and countering disinformation. This effort made it evident that there are currently no easy or dependable technology solutions for automatically identifying disinformation campaigns early enough to counter them with accurate information.

The RAND Corporation (“RAND”), is one of the organizations the designated taskforce workgroup researched and determined was a nonprofit, nonpartisan research organization that develops solutions to public policy challenges. In 2018, RAND published a 226-page publication titled, *Truth Decay, An Initial Exploration of the Diminishing Role of Facts and Analysis in American Public Life*.<sup>66</sup> In response to disinformation, RAND established the Countering Truth Decay Initiative.<sup>67</sup> RAND researchers identified and characterized the universe of online tools developed by nonprofits and civil society organizations to target online disinformation. These tools were created to help information consumers, researchers, and journalists navigate today's challenging information environment. The goals of the Initiative are:

- a. Identify and collect in one place a set of resources that can help users combat the challenge of disinformation, gain greater awareness of the media ecosystem, and become more-savvy information media consumers.
- b. Inform funders and developers about the set of tools currently under development, those tools in need of funding, and areas where additional development would be beneficial.
- c. Provide a map of ongoing projects and developed tools that could serve as an input to efforts to build a field around the study of disinformation and its remedies.

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<sup>66</sup> [https://www.rand.org/pubs/research\\_reports/RR2314.html](https://www.rand.org/pubs/research_reports/RR2314.html)

<sup>67</sup> <https://www.rand.org/research/projects/truth-decay.html>

As part of its research, RAND compiled a list of 84 online tools that may assist individuals in identifying and combatting disinformation.<sup>68</sup> However, while current technology can help an individual determine the accuracy and veracity of information, it requires the individual to know what questions to ask and where to go for credible answers. Further complicating the process is the fact that the steps necessary to determine the truth and authenticity of potential disinformation using technology tools differs based on the medium of the communication. Since disinformation can come in the form of images, video, audio, writings, speaking, or a combination of these mediums, there are no overarching disinformation technology solutions available to courts or the general public. The most significant advances in technology solutions like identifying and flagging content are taking place in the private sector and within the largest social media platforms like Facebook and Twitter.<sup>69</sup>

When looking to technological solutions to counter disinformation, the most immediate promise comes in the form of spotting video and image-based “deep fakes.” These initiatives include efforts from big technology companies including Adobe, Microsoft, and YouTube. Most of these efforts are in early stages and require burdensome manual steps and technological skills for individual users to make decisions on the content in question. Looking to the near future there are several bright spots regarding the development of more automated methods and tools to identify and respond to deep fakes and disinformation campaigns.

Artificial intelligence (“AI”) solutions and self-learning neural nets that can be trained to identify disinformation are being studied and developed in both academic and commercial settings. These solutions tend to focus on several key areas of debunking disinformation. Two areas of development that AI and neural-net researchers are focusing on are media authentication/provenance tools<sup>70</sup> and deepfake detection applications,<sup>71</sup> both of which are in their

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<sup>68</sup> <https://www.rand.org/research/projects/truth-decay/fighting-disinformation/search.html>

<sup>69</sup> The Task Force heard from Ryan Fox with Yonder.co, a private sector provider that demonstrated the ability to leverage this technology today. Access to this service and others like it that may be available appear to be resource-prohibitive for state courts and individuals but may be within reach for the federal court system or through a consortium of state courts.

<sup>70</sup> Media authentication/provenance tools look at numerous data points related to the origins of the specific media in question, for instance a list of major news and other web sites and locations that media was published or posted to previously.

<sup>71</sup> Deepfake detection applications “includes solutions that leverage multi-modal detection techniques to determine whether target media has been manipulated” See <https://towardsdatascience.com/technical-countermeasures-to-deepfakes-564429a642d3>.

development stages and both of which focus on image and video-based deepfake disinformation. With disinformation creeping into many areas of day-to-day life, from politics to consumer products, the push to develop automated disinformation detection technologies has seemingly started in earnest at technology companies and research institutions around the U.S. and the world.

While no automated technologies or tools have reached full development and potential for individual use, the exponential growth in technology and research in this area offers hope that early solutions are on the horizon. Current technology-based disinformation solutions are limited to resource/research-based tools like Snopes.com and other sources of fact-based disinformation research. It is important to continue to revisit the technological tools and developments in both AI and neural net-based technology solutions, since a number of them will integrate multiple technology company initiatives like ADOBE Content Authenticity Initiative and MICROSOFT AETHER Media Provenance (“AMP”).

One thing courts can do today is use their websites and outreach efforts for the public to opt-in for communications from the courts. With the recipient’s permission, courts can gather email addresses and, for sending text messages, telephone numbers, based on the recipient’s preferences. Courts are outmatched in their outreach abilities, compared to some elected officials, celebrities, and influencers with millions of followers. Courts and judicial branch individuals are particularly outmatched against organized campaigns supported by AI, bots, and staff who are paid to create and maintain a disinformation campaign. But the more courts can expand and magnify their reach, the better prepared they will be to share positive stories and to counter disinformation.

**The Task Force recommends:**

24. That the Task Force continue monitoring the ongoing technology developments and long-term solutions for identifying and countering disinformation campaigns.
25. That the AOC, and individual courts if applicable, establish an opt-in system for the public to provide contact information such as email addresses or a phone number to receive text messages, thus allowing Arizona’s courts to more easily and quickly share information and to correct inaccuracies or disinformation.

**Recommendation 8: Make federal public information available in Arizona regarding registrations as foreign agents under the Foreign Agents Registration Act, 22 USCA § 611, et. seq. (“FARA”).**

FARA requires certain agents of foreign principals who are engaged in political activities or other activities specified under the statute to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities. Disclosure of the required information facilitates evaluation by the government and the American people of the activities of such persons considering their function as foreign agents. The United States Department of Justice (“USDOJ”) has a FARA Unit within the Counterintelligence and Export Control Section in the National Security Division that is responsible for the administration and enforcement of FARA.

Individuals who promote state-sponsored messages from a foreign government must register under FARA. USDOJ maintains information about registered agents and making this information available to the public in Arizona will support transparency and promote public awareness.

AO 2019-114 suggested that the Task Force consider legislation that would require foreign agents to identify their content to the public in Arizona. The Task Force spoke with subject-matter experts on FARA and on the legislative process in Arizona. In considering its options, the Task Force determined that legislation duplicating federal requirements would be confusing to those required to register and to the public. The Task Force recognizes the federal/international nature of this information along with existing federal reporting requirements and concludes that recommending state legislation is not effective; particularly since there is an existing federal law that achieves the same purpose (FARA). In addition, the Task Force determined that if an Arizona legislative proposal were presented, it would require input and implementation details from multiple stakeholders and would more appropriately be proposed by a non-judicial entity, based on a general understanding that regulatory laws are a policy matter. As a result, the Task Force does not recommend pursuing new state or local legislation requiring foreign agents to identify themselves or their content to the public.

**The Task Force recommends:**

26. That the AOC approach an Arizona Executive Branch agency by March 2021 to secure a commitment that they compile publicly-available registration information from the USDOJ and publish Arizona-related information to that state agency's website. The Task Force identified the Arizona Department of Homeland Security and the Department of Public Safety as potential agencies to post this information, as both are statewide agencies responsible for monitoring and protecting the state's security interests. The Arizona Secretary of State's office was identified as another option, given its statewide responsibilities for elections and registering lobbyists.

**Recommendation 9: Extend the term of the Countering Disinformation Task Force through December 2021.**

The Task Force believes it is best situated to implement the recommendations in this Report, to identify anticipated technological developments in countering disinformation, and to provide a coordinated response to inquiries generated by this Report from within and outside Arizona.

**The Task Force recommends:**

27. That the term of Arizona's Countering Disinformation Task Force be extended through December 2021.

**IV. Conclusion**

According to an analysis of the NCSC's 2019 annual *State of the State Courts*<sup>72</sup> survey, Americans are "increasingly distrustful of many pillars of our society, including government," and admit to a "decreased confidence in all levels of the court system."

This decline in public trust was addressed, in part, by U.S. Supreme Court Chief Justice John G. Roberts, Jr. in his *2019 Year-End Report on the Federal Judiciary*<sup>73</sup> where he stated, "We

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<sup>72</sup> <https://www.ncsc.org/topics/court-community/public-trust-and-confidence/resource-guide/2019-state-of-state-courts-survey>

<sup>73</sup> <https://www.supremecourt.gov/publicinfo/year-end/year-endreports.aspx>

should each resolve to do our best to maintain the public’s trust that we are faithfully discharging our solemn obligation to equal justice under law... in our age, when social media can instantly spread rumor and false information on a grand scale, the public’s need to understand our government, and the protections it provides, is ever more vital.”

Chief Justice Roberts’ comments are a call to action and a window of opportunity. Through proactive and consistent measures, Arizona’s courts can work collectively to counter disinformation, educate and inform, and regain or even strengthen the public’s trust and confidence in courts and the protections they uphold.

Courts must actively inform the public about court processes and procedures. Recognizing the power and influence of online information, courts can help the public make better-informed decisions about what they encounter online, and to be more critical consumers of online content.

Courts must do better explaining rulings, procedures, and requirements so those who are unaware of the nuances of the law do not disparage the court, or an individual judge’s integrity, based solely on the outcome of a matter. Courts must use their untapped or unexplored resources in responding to or rejecting inaccurate criticism of courts or the judiciary while respecting the expression of individual opinions and the exercise of First Amendment rights. This balanced approach encourages constructive criticism that can improve the judicial system while guarding against campaigns intended to do harm.

In her 2019 TED talk, *How You Can Help Transform the Internet Into a Place of Trust*<sup>74</sup> Dr. Claire Wardle, an expert on social media and former Research Fellow at the John F. Kennedy School of Government at Harvard University, cautioned: “People talk about taking down ‘problematic’ or ‘harmful’ content, with no clear definition of what that means.” In any campaign to counter disinformation, courts must be conscious that, as Dr. Wardle mentions, “a well-meaning decision by one person is outright censorship to the next.”

Courts must recognize that their societal role as unbiased, impartial, and fair arbiters of the law requires consistent, truthful, accurate messages. Courts must also ensure that their audience – litigants, reporters, and the public – understand their communication. Nuanced legal issues and specific obligations and restrictions placed on the judiciary through laws, rules, codes, and canons must be clearly explained.

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<sup>74</sup>[https://www.ted.com/talks/claire\\_wardle\\_how\\_you\\_can\\_help\\_transform\\_the\\_internet\\_into\\_a\\_place\\_of\\_trust](https://www.ted.com/talks/claire_wardle_how_you_can_help_transform_the_internet_into_a_place_of_trust)

In concluding his report, Chief Justice Roberts noted, “I ask my judicial colleagues to continue their efforts to promote public confidence in the judiciary, both through their rulings and through civic outreach. We should...remember that justice is not inevitable and each resolve to do our best to maintain the public’s trust that we are faithfully discharging our solemn obligation to equal justice under law.” Arizona’s Task Force on Countering Disinformation echoes those sentiments and encourages all courts—in Arizona and beyond—to pursue and uphold these ideals.



# **APPENDIX A**

## Arizona Supreme Court Countering Disinformation Task Force 2019-2020 (TEST)

Thank you for completing this survey to help the Task Force recognize and identify disinformation directed against Arizona’s judiciary. For this survey, “Disinformation” is defined as: False, inaccurate or misleading information that is deliberately spread to the public with the intent to undermine the democratic process, sow discord, profit financially, or create distrust of government institutions or public officials. Disinformation should not be confused with legitimate criticism, protest or censure of government actions, institutions, or processes.

1. Have you observed what you believe to be disinformation activities concerning the Arizona or U.S. justice systems?

- Never
- Rarely
- Sometimes
- Often

2. How many disinformation incidents do you believe you, your court, or agency have been the target of since January 1, 2018?

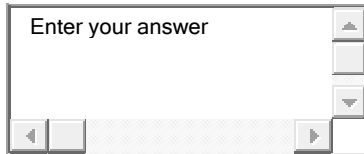
- None
- 1-5
- 6-10
- 11-15
- 16 or more

3. Please describe your experience with what you believe to be disinformation in the box below. Your response will be anonymous and non-public unless you indicate otherwise below.

4. If you are willing to have the above included in public documents please click [here](#).

- OK to publish

5.If you are willing to answer questions concerning your survey response or discuss this topic further, please write your name and contact information in the box below. Your responses will be anonymous and non-public unless you specifically indicate the contrary.

Next

This content is created by the owner of the form. The data you submit will be sent to the form owner.

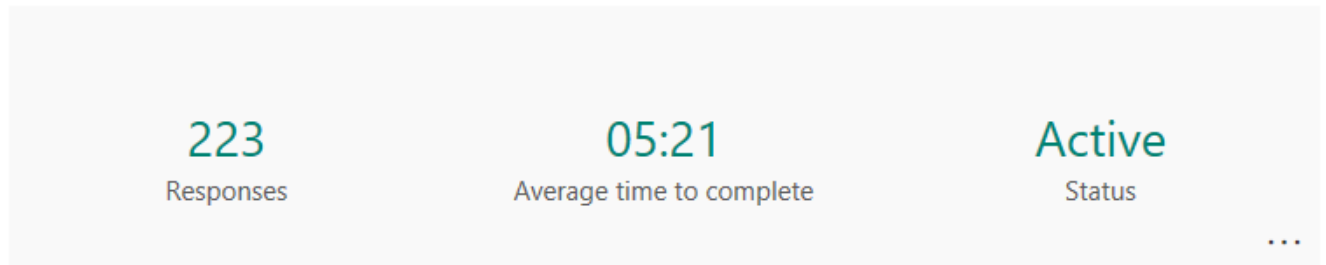
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# **APPENDIX B**

## Arizona Supreme Court Countering Disinformation Task Force

Select screen shots from workgroup survey on judicial branch awareness of disinformation campaigns in Arizona. Survey participants: judicial officers from state, federal, and tribal courts; clerks of court; court administrators; and probation officials. Survey dates: 1/2/2020 – 1/17/2020. Response rate: 60%+. Responses received from all 15 Arizona counties.

### Arizona Supreme Court Countering Disinformation Task Force 2019-2020



[View results](#)

Open in Excel

1. Have you observed what you believe to be disinformation activities concerning the Arizona or U.S. justice systems?

[More Details](#)

● Never	53
● Rarely	68
● Sometimes	84
● Often	18



2. How many disinformation incidents do you believe you, your court, or agency have been the target of since January 1, 2018?

[More Details](#)

● None	116
● 1-5	75
● 6-10	19
● 11-15	4
● 16 or more	6



## 6. Your Role in the Court System:

[More Details](#)

Judicial Officer	162
Court Clerk's Office	14
Court Administration	34
Probation/Detention Departm...	8
Other	5



## 7. Your Jurisdictional Duties:

[More Details](#)

Municipal Court	58
Justice Court	44
Superior Court	105
Appellate Court	9
Federal, Tribal, Other	5



## 8. Years of Service in Court System:

[More Details](#)

Less than 1 year	8
1-5 years	36
6-10 years	57
11-15 years	40
16 years or more	81



## 9. Gender identity

[More Details](#)

Male	120
Female	92
Other	0
Prefer not to say	8



# APPENDIX C

ID	Have you observed what you believe to be disinformation activities concerning the Arizona or U.S. justice systems?	How many disinformation incidents do you believe you, your court, or agency have been the target of since January 1, 2018?	Please describe your experience with what you believe to be disinformation or about which you are uncertain, in the box below. Your response will be anonymous and non-public unless you indicate o...	Your Role in the Court System:	Your Jurisdictional Duties:	Years of Service in Court System:	Gender identity
1	Never	None		Court Administration	Municipal Court	16 years or more	Male
4	Never	None		Judicial Officer	Appellate Court	16 years or more	Male
5	Sometimes	6-10	Many in the community have been the targets of juror scams by telephone.	Probation/ Detention Department	Superior Court	16 years or more	Male
8	Sometimes	None		Judicial Officer		6-10 years	Female
9	Sometimes	1-5	Litigants have posted false and sometimes defamatory information about me online.	Judicial Officer	Superior Court	6-10 years	Male
11	Sometimes	None	When politicians blame judicial decisions that they do not agree with as the court being biased.	Court Administration	Municipal Court	16 years or more	Male



18	Sometimes	11-15	A litigant has posted quite a bit of inaccurate information about me in a number of online forums including her public Facebook page and within comments she has made on a number of local news articles. I have not read all of the posts but several have been shown to me and a number of her Facebook posts were included in filings by opposing counsel in the case I was assigned to. My involvement with her case ended over two years ago but every once in a while she will post things about me that are not true. I find out about these posts secondhand, so I'm not entirely sure exactly how much she posts about me or how often.	Judicial Officer	Superior Court	11-15 years	Female
34	Rarely	1-5	Just general gossip from defendants about what agencies may tell them - which does not always put the Court in the best light.	Court Administration	Justice Court	16 years or more	Female
36	Sometimes	6-10	Reading newspaper articles that reflect very inaccurate positions on rulings/sentencings.	Judicial Officer	Superior Court	1-5 years	Female
39	Sometimes	1-5	Parties believe that the court will act on matters other than what is actually before the court. Parties believe that the court will serve process/notify the other party about petitions, motions, hearings. The public believes the court's powers are unlimited. The public believes that the court may excuse compliance with certain statutory requirements for notice/consent in name changes, adoptions, primary residence of children, etc. Parties believe that judges talk to other parties outside of court and/or make decisions that favor friends or friends of friends, etc.	Judicial Officer	Superior Court	16 years or more	Female
42	Never	None		Judicial Officer	Justice Court	6-10 years	Male

46	Often	16 or more	False information disseminated by privately funded research organizations subsequently cited by local media and reprinted. These stories are subsequently cited in academic works, which are then, again, reported on.	Judicial Officer	Appellate Court	Less than 1 year	Male
47	Sometimes	1-5	At an IPH hearing, some family members of the defendant told others in the gallery both before I arrived and during the hearing that judges make up their mind long before they hear the cause, and nothing anyone says will matter anyway.	Judicial Officer	Municipal Court	6-10 years	Male
48	Never	None		Judicial Officer	Municipal Court	6-10 years	Female
49	Rarely	None		Judicial Officer	Municipal Court	16 years or more	Male
50	Never	None	Imbalance of power between the County Attorney's Office and the Judicial Officer. Judges should have more discretion in sentencing and be able to apply the appropriate level of justice. Citizens are at times compelled to accept plea agreements because the County Attorney's counter-offer is far too strict and does not give the litigant access to fair justice and judicial discretion.	Probation/ Detention Department Court	Superior Court	16 years or more	Male
51	Never	None	None that I can recall.	Administration	Superior Court	6-10 years	Male
61	Sometimes	1-5	I primarily hear general statements about how Arizona is a "pro-mother" state when it comes to family law decisions. This statement is categorically false. Our statutes do not favor either mothers or fathers but are focused on the best interests of children.	Judicial Officer	Superior Court	6-10 years	Female

62	Sometimes	6-10	complaints to the judicial commission, complaints to the mayor and council, complaints to the media all centered around false information/accusations of judicial misconduct or judicial bias/inappropriate relationships etc	Judicial Officer	Municipal Court	6-10 years	Female
83	Sometimes	1-5	Comments/false allegations on social media. Specifically accusing judges of "making citations disappear from other jurisdictions".	Judicial Officer	Municipal Court	16 years or more	Female
84	Never	None		Judicial Officer	Superior Court	11-15 years	Male
85	Rarely	1-5	"Constitutionalist Blogger" entered the courthouse and filmed their interaction with security without prior notice or authorization. This was an attempt to disrupt court proceedings, and give the public a false impression regarding lawful access to the courthouse. This was later posted on-line.	Judicial Officer	Superior Court	16 years or more	Male
86	Sometimes	1-5	Fake Facebook accounts.	Court Administration	Municipal Court	16 years or more	Male
89	Never	None	N/A	Judicial Officer	Justice Court	6-10 years	Male

The Arizona Republic did a "story" on juvenile justice in Arizona after the National Juvenile Defender Center issued their 2018 study Arizona, Bringing Gault Home. The "story" claimed that in Gila County juveniles charged with delinquencies were still being denied their right to counsel. The claim made for a good "story" because it made it look like the one court that should have learned the lesson of Gault--the court Justice Fortas described in Gault as a "kangaroo court"--was still violating the principals of juvenile justice set forth in Gault. The truth of the matter was just the opposite. Gila County provides access to legal counsel to all juveniles charged with delinquencies and has for decades. In fact, most juveniles have access to provisional counsel before their advisory hearings. When I contacted the reporter at the Republic, they made a correction to the internet edition of the article, but the "story" was out in print and had been out on the internet for about a half a week before the correction was made. So, most people who read the article were left with the impression that the superior court in Gila County must be run by a bunch of backwater country hicks who routinely disregard juvenile rights.

94 Sometimes 1-5 Judicial Officer Superior Court 1-5 years Male

I was named as the judge who ruled against an individual I was not the judge who ruled against him Yet he made a complaint to the Judicial Commission and named me.

97 Sometimes 1-5 Judicial Officer Justice Court 1-5 years Male

typically the disinformation is from a disgruntled litigant

102 Rarely 1-5 Judicial Officer Municipal Court 16 years or more Male

103	Often	1-5	Information about judges making law versus interpreting law. The notion of "advocate judges' false narrative. Attended professional defense bar seminar where comment suggesting "bench trials pose threat to defendants in that "judges are biased" thus jury trial better/fair". Criminal justice system generally is portrayed as unfair.	Judicial Officer	Municipal Court	11-15 years	Female
111	Sometimes	None		Judicial Officer	Superior Court	16 years or more	Female
118	Sometimes	6-10	Litigants and interested persons attempting to spin a loss as being contrary to law or public policy. Essentially using the excuse that they lost because of the judge, not the law.	Judicial Officer	Superior Court	1-5 years	Male
123	Sometimes	6-10	Mostly, I have seen the internet discussions related to those who profess to be "constitutionalists" or have similar beliefs. Most of the information relates to the lack of jurisdiction of the State Court; the fact that criminal charges create a contract, and/or that the defendant has the ability to place a "lien" on the property of legal and judicial officials.	Judicial Officer	Superior Court	11-15 years	Female
129	Rarely	None	I have observed information posted on Facebook by non-individuals that seems to be twisting facts or the truth to try to prove disinformation as fact.	Judicial Officer Court	Justice Court	6-10 years	Male
140	Never	None	N/A	Administration	Justice Court	16 years or more	Female

143	Rarely	1-5	We have had issues with our communities understanding court procedures and our jurisdictional authority with regard to repeat offenders with mental health issues. Specifically that we have limited authority after a defendant has gone through Rule 11 and Title 36 mental analysis and has been found to be capable. Since our communities in rural Yavapai County are broken up, the consequences of people pointing fingers at the court for "inaction" have caused considerable negative community views of the court system and our ability to "take care of" repeat offenders that, it seems, the whole community is up-in-arms about... and arguably rightfully so.	Judicial Officer	Justice Court	11-15 years	Male
148	Rarely	1-5	Public believes that all courts are out for money only and will not be fair.	Judicial Officer	Justice Court	1-5 years	Male
151	Rarely	1-5	The mother of a suspect in a criminal misdemeanor case utilized her Facebook account to comment on the Court's operational procedures (stating that the Court was holding non-public hearings, which was less than truthful.	Judicial Officer	Municipal Court	Less than 1 year	Male
156	Sometimes	1-5	Defendants and people putting out totally false information about the Court, its policies, the law and also false personal attacks on the Judge.	Judicial Officer	Justice Court	1-5 years	Male
164	Rarely	1-5	It was the Sovereign Citizens running their videos and ling about what a non-event when they charged up behind our bailiff after disrupting Town Hall and the Water Dept.	Judicial Officer	Municipal Court	16 years or more	Male

175	Sometimes	1-5	After the Court issued the directive regarding use of electronic recording devices in and around the court building, our office received phone calls from out of state persons who had similar talking points leading us to believe that they had received disinformation.	Court Clerk's Office	Appellate Court	16 years or more	Female
179	Often	None	The media reporting who appointed a judge. The implication is that judges are loyal that person or political party. This affects the perception of impartiality.	Judicial Officer	Justice Court	6-10 years	Male
181	Sometimes	1-5	"First amendment auditors" filming even when prohibited by staff and then posting it and lying about the encounter.	Court Administration	Municipal Court	16 years or more	Prefer not to say
187	Rarely	None	N/A	Judicial Officer	Municipal Court	16 years or more	Male
189	Rarely	1-5	We had 1st amendment auditors come to our building with cameras to try to create problems when they were told they could not be recording in the building. They were live streaming and causing quite a commotion and making it hard for litigants to enter the building and were creating some fear among people already here. Their purpose was to make it look like we were hiding something and/or to provoke any kind of incident to make us look bad by telling the security guards not to touch them when they were kindly trying to show them the door out and also by using aggressive behavior and language. They followed the head of security out of the building and down the street for quite some time and started mocking him and making rude comments about his physical appearance. They continued on to the sheriff's building	Judicial Officer	Justice Court	1-5 years	Female

191	Often	16 or more	I believe that various legislators have provided disinformation about the courts, court decisions, and even as to individual judges. I also have seen similar disinformation in "My Turn" type columns in the AZ Republic. (Not the Republic reporters and columnists).	Judicial Officer	Superior Court	16 years or more	Male
196	Sometimes	1-5	False attacks videos and website on discipline system for lawyers and [Presiding Disciplinary Judge]	Court Administration		16 years or more	Male
197	Rarely	6-10	Generally the incidents involve disgruntled litigants venting their anger on social media.	Judicial Officer	Superior Court	11-15 years	Male
198	Sometimes	1-5	Judge's bias. Function of the Judicial branch of government.	Court Administration	Municipal Court	6-10 years	Female
199	Sometimes	6-10	Main stream media; in my opinion, consistently misunderstand, misinterpret, and/ or frequently are incorrect in their characterization or reports regarding legal matters.	Judicial Officer	Superior Court	16 years or more	Male
200	Sometimes	6-10	Mischaracterization of court orders and the basis of those orders.	Judicial Officer	Superior Court	1-5 years	Male
209	Never	None		Judicial Officer	Superior Court	1-5 years	Male
216	Sometimes	11-15	It comes up frequently at the time of determining the county's budget. It can also occur in calls to the public. There will be instances of letters to the editor in newspapers. There are references at political meetings, again when there are either controversial decisions, or budget issues.	Judicial Officer	Superior Court	16 years or more	Male



218	Often	1-5	<p>On a national level, the President of the United States has referred to judges who have ruled against his administration on such matters as DACA and sanctuary cities as "Obama judges" and "so-called judges;" has referred to Chief Justice Roberts as, I believe, "a complete disaster," personally attacked Justice Ruth Bader Ginsberg; attacked our own Ninth Circuit and, I believe, suggested that it be splintered or perhaps dissolved; has disparaged the heritage of a judge who ruled against him in the Trump University lawsuit.</p>	Judicial Officer	Municipal Court	6-10 years	Male
221	Rarely	1-5	<p>That Municipal Courts are there to make money for the Town/City and that no defendant has a chance. Also considerable confusion about civil and criminal tickets.</p>	Judicial Officer	Municipal Court	16 years or more	Male

# **APPENDIX D**

To: Aaron Nash, Chair, Task Force on Countering Disinformation  
From: Patience T. Huntwork, Member of the Task Force  
Re: Prolific questionable posts on [the website] as a threat to the U.S. judiciary  
Date: September 13, 2020

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The Task Force on Countering Disinformation (“The Task Force”) was formed by Arizona Supreme Court Chief Justice Robert Brutinel in 2019 after national security specialists informed the Conference of Chief Justices that Russia and possibly other enemy states could be attempting to undermine the stability of the nation by discrediting the judiciary.

As a member of the Task Force and its Working Group 1, I was assigned to contact a list of judges who, in response to a questionnaire, had reported receiving disinformation or misinformation. From my interviews, I learned about questionable comments/postings on judges posted on [the website], which is designed as a public rating-and-comment site on the judiciary in all fifty states.

I have studied the comments posted on [the website] in depth. After selecting as a test group all judges in Maricopa County, Arizona, I first compiled, numbered, and studied each of the more than 500 disparaging remarks about those judges (**Attachment D**, Numbered Comments). I noted a large number of common linguistic traits indicating a common origin and authorship. The comments, individually and as a totality, raised conspicuous red flags. The same themes and linguistic traits were found in postings about judges in other U.S. jurisdictions. (**Attachment E**). Following are my observations:

(1) The site’s comments were overwhelmingly denunciatory with respect to the majority of Maricopa County judges. In other words, the majority of Maricopa County judges were denounced as unfit to sit on the bench. The comments employ a large number of common terms, phrases, and themes which are repeated in hundreds of postings. A majority of the postings contain common linguistic characteristics with other posts. These identical idioms, vocabulary, and phraseology constitute a virtual glossary or lexicon of denunciation, slander and hate and, collectively, constitute the majority of the postings. I have catalogued the recurrence of numerous common idioms employed on the site in **Attachment A**, Denunciatory Themes.

(2) The site also includes many postings by a “Criminal Defense Attorney” that are implausible and obviously counterfeit due to misuse of the English language and ignorance of basic legal facts. They were likely not written by an attorney. Ditto the comments by “court staff.” Some comments employ the European spelling of the words “judgement,” “favour,” and “behavior.” See **Attachment B**, Questionable Postings/Red Flags.

(4) If the reader of this analysis is skeptical of the questionable and possibly counterfeit nature of the postings, following are two examples:

(Posted by “criminal defense attorney”) Now that all the ‘karens’ of the world are getting exposed it’s time for this piece of shit to get exposed. With all the problems of systematic racism, this dick licker is part of the system and one of the main issues in society today. This is a male version of a “Karen” in a position of power who supports all the other “karens” to

achieve oppression. This is a man who feels inferior around a real man. Howard your a piece of shit, you were born one, remain one and will die a piece of shit. You serve yourself not the people & your face looks like a 100 year old scrotum sack.

...

(Posted by "court staff") Do not vote for him. He is a waste of tax payer money. He sides with money. Crooked celebrities. He is on the side of Hollywood dirty money and not hard working tax payers from his own state. Vote him out. Before he allows you to be ripped off. One sided and has no clue about moral values. I feel sorry for his children, grandkids, wife, cause a mockery was made in His courtroom and he allowed a felon who isnt from this state and cannot voter to win over a hard working man who voted for him. Our system is a joke.

(4) Threats against judges' job security, reputations, livelihood, and lives constitute the major thrust of the comments. There are over 80 comments urging others to remove/ wage a FB campaign to remove/ investigate/ disbar/ sue/force into retirement / put in prison / send to jail/ file a complaint against/make to pay the State back for all the money reaped from defrauding the system/ hang/ or "quarter," specific judges. See **Attachment A** under the term "Threats."

(5) The secondary theme is derogation of Arizona's and the nation's judicial system, including the obligation of jury service. See **Attachment A** under the term "Disappointed in the legal system."

(6) A significant number of these posts openly incite hatred of, and violence against, specific judges and would seem to constitute anti-judge hate speech. See **Attachment A** under the term "Hate Speech."

(7) Grotesquely slanderous postings are leveled at some of the Maricopa County bench's highest-rated and most respected female judges, and others accuse judges of both genders of religious, ethnic and gender bias, or are themselves crudely discriminatory. See **Attachment A** under the term "Women and minorities" and "Bias."

(8) [the website] is a significant source of public information on judges, and should be taken seriously. See **Attachment C**, which consists of screen shots of Google listings on specific Maricopa County judges. Its impact as information sought by the public. Several posts express fear of appearing before a judge after reading comments on [the website]. Other posts expressed alarm at the exaggerated denunciations of judges, which they termed "a mission to slander her," "bully[ing]," "shock[ing]," and "so off the mark it's shameful." As a pervasive source of public information on judges, [the website] poses a threat to the public's confidence in the judiciary, and can only serve to intimidate judges who are concerned for their professional standing.

Most importantly, the effort to populate the site with false denunciations appears to be directed at the entire U.S. Judiciary. (See **Appendix E**.) If these suspicions are confirmed, some degree of ongoing threat is posed to U.S. judges' standing, public acceptance, and independence. Without any doubt, due to the sheer volume of hyperbolic denunciations and hate speech, [the website] is currently weaponizing contempt for and hatred of U.S. judges, with implications for judges' security and safety. National security researchers, after reviewing this report, have confirmed that the postings are consistent with Russia's and other hostile states' efforts to delegitimize U.S. institutions and destabilize our democracy. It is my hope that they and other professionals in national security will further investigate the postings and attempt to either confirm or disprove my tentative conclusions. pth

# **APPENDIX E**

Organization	Web Address
Arizona Council for Economic Education (ACEE)	ACEE / Arizona Council for Economic Education <a href="https://www.azecon.org/">https://www.azecon.org/</a>
Arizona Council for History Education (ACHE)	ACHE / Arizona Council for History Education <a href="https://azhistorycouncil.org/">https://azhistorycouncil.org/</a>
Arizona Council for the Social Studies (ACSS)	<a href="http://acssaz.org/">http://acssaz.org/</a>
Arizona Department of Education (ADE)	ADE / Arizona Department of Education <a href="https://www.azed.gov/calendar/events/">https://www.azed.gov/calendar/events/</a>
Arizona Foundation for Legal Services and Education (AzFLSE) - We the People; Project Citizen; Kids Voting AZ; Mock Trial; Teen Court; Law Day; Constitution Day	<a href="http://www.lawforkids.org">www.lawforkids.org</a> or <a href="http://www.azbf.org">www.azbf.org</a>
Arizona Geographic Alliance (AzGA)	AzGA / Arizona Geographic Alliance <a href="https://geoalliance.asu.edu/">https://geoalliance.asu.edu/</a>
Arizona Historical Society (AHS)	AZHS / Arizona Historical Society <a href="https://arizonahistoricalsociety.org/">https://arizonahistoricalsociety.org/</a>
Center for the Future of Arizona	<a href="https://www.arizonafuture.org/">https://www.arizonafuture.org/</a>
Citizenship Counts	<a href="https://citizenshipcounts.org/">https://citizenshipcounts.org/</a>
iCivics - National Organization	<a href="http://www.icivics.org">www.icivics.org</a>
Inspire US	<a href="https://www.inspire2vote.org/">https://www.inspire2vote.org/</a>
Joe Foss Institute	<a href="https://joefossinstitute.org/">https://joefossinstitute.org/</a>
League of Women Voters	<a href="https://www.lwv.org/">https://www.lwv.org/</a>
National Council for Social Studies	<a href="https://www.socialstudies.org/">https://www.socialstudies.org/</a>