

106-NOV A.B.A. J. 20

ABA Journal

October/November, 2020

Business of Law

Edited by Victor Li

victor.li@americanbar.org

Social Media

Lyle Moran

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FIGHTING DISINFORMATION National Security Lawyers Say Russia Is Ramping up Attacks on the American Judiciary-- And Meeting Resistance

Donald Trump asked Russia to find Hillary Clinton's emails during the 2016 election, and special counsel Robert Mueller alleged Russians began attempting to gain access to Clinton campaign email accounts shortly thereafter. The ultimately successful email hacking was one element of wide-ranging Russian efforts to interfere in the last American presidential race, and the U.S. intelligence community has warned that Russia is reportedly meddling in the current election cycle as well.

But national security lawyers say the Kremlin also is using both social and state-sponsored media to spread disinformation about the justice system with the goal of weakening American confidence in the rule of law.

“I think their clearest objective is to convince people that our institutions, including our justice system, are irrevocably broken,” says Suzanne Spaulding, senior adviser for homeland security and director of the Defending Democratic Institutions project at the Center for Strategic and International Studies.

In hopes of blunting the impact of Russia's information warfare and similar efforts by other actors, the center where Spaulding is based and the ABA Standing Committee on Law and National Security have begun a multipronged ***21** campaign to educate courts and lawyers about the ongoing threat and how to effectively respond.

Leaders of the initiative are carrying out their efforts through workshops hosted by the National Center for State Courts and speaking engagements in front of a wide array of legal organizations, including the ABA.

Additionally, at the ABA Annual Meeting in August, the House of Delegates approved Resolution 300B, which urges every level of government in the U.S. “to promote digital literacy, civic education and public awareness to build societal resilience to domestic and foreign malign disinformation operations.”

Russian attacks

Spaulding, a former chair of the ABA Standing Committee on Law and National Security, along with co-authors Devi Nair and Arthur Nelson, published a May 2019 report titled *Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System*.

The authors write that the Russian disinformation attacks typically try to exploit four different frames supporting the overall message that the U.S. system is not independent or impartial. These frames include suggesting the justice system “tolerates, protects and covers up crimes committed by immigrants” and “is a tool of the political elite.”

So-called Russian troll farms then take to social media to spread falsehoods about specific cases and judges, among other topics, in hopes of reaching a broad audience, according to the report.

One example is the criminal case stemming from the 2015 death of Kate Steinle, who was shot by a person living in the country without legal permission.

The shooting took place in San Francisco, a self-declared “sanctuary city,” and anti-immigration advocates pointed to Steinle's death to promote their policy prescriptions.

When a California jury acquitted the defendant of murder and manslaughter in 2017, a Twitter account Spaulding's report says is associated with Russia tweeted: “The #KateSteinle acquittal has uncovered the corruption of the criminal justice system, with jurors kept ignorant by activist judges and complicit liberal lawyers.”

The report found spikes in online activity from right-leaning accounts associated with Russia during key points in the aftermath of Steinle's death, including the trial verdict. The report also tracks left-leaning accounts in Russia and noted a spike in traffic in 2016, after the police shootings of Philando Castile and Alton Sterling.

“By politicizing the court system during an already high-profile trial involving an illegal immigrant, Russia targeted the impassioned audience in the hopes that they would not only draw incorrect conclusions about the case, but also draw similar conclusions about the entire justice system,” the *Beyond the Ballot* report states.

Russia also frequently uses state-sponsored media, such as *RT* and *Sputnik*, in order to attack judicial institutions, according to the report.

“As this report has shown via the lens of the justice system, Russia's disinformation operations are sophisticated and touch all parts of society,” *Beyond the Ballot* concluded. “Though gradual, the effects of these campaigns could cause serious damage to institutions tasked with upholding justice and the rule of law.”

Fighting back

To combat Russian and other disinformation campaigns, CSIS and the ABA have teamed up with the National Center for State Courts to host virtual workshops for state court leaders and employees across the country. The participants from each state are urged to form rapid-response teams and develop playbooks outlining how they will confront both foreign and domestic information warfare. The workshops, which include tabletop exercises, emphasize that it's best to focus on the facts when responding to disinformation with messages distributed to the public and media.

“There is no way you can put the genie back in the bottle after the tsunami has hit the shore,” says Mary McQueen, president of the NCSC. “What we can do, though, is say, ‘This is how courts *22 work. This is how they evaluate the information. This is a jury trial where your colleagues out in the community are making decisions about this case.’”

Additionally, the NCSC commissioned focus groups last year that demonstrated members of the public are receptive to messages about how courts uphold key American values, according to Jesse Rutledge, the NCSC's vice president for external affairs. “If you talk about courts as guardians of constitutional rights, that is something every American can relate to,” Rutledge says. “So we will focus on emphasizing values-based messaging as how courts should be seeking to address these attacks.”

Among the states, Arizona has taken the most proactive approach to ensuring its preparedness to push back against future disinformation campaigns, according to the NCSC officials. In September 2019, the Arizona Supreme Court announced the creation of the Task Force on Countering Disinformation, which was charged with suggesting technology and resources that could “identify disinformation campaigns early enough to counter them with accurate information.”

The panel was also charged with proposing “approaches to public education and communication that accurately reflect the roles and processes of courts.”

Aaron Nash, the task force's chair, says Arizona's state court system is already working with a company called Critical Mention to help it track social media platforms for potential disinformation campaigns.

Dave Byers, administrative director of the courts in Arizona, adds that the court system is also gathering email addresses and phone numbers to compile contact lists it could use to distribute messages in the event of a disinformation attack involving the justice system.

Meanwhile, the state's disinformation task force is expected to release its final report and recommendations by Oct. 1.

“If another state wants to create a task force or assign people to look at the same issues, they don't have to start from scratch like we've been doing,” says Nash, the Arizona Supreme Court's communications director.

As for the federal courts, they have focused on civics education to help combat disinformation. In October 2019, the first national civics outreach conference for the federal judiciary was held at the New York City-based 2nd U.S. Circuit Court of Appeals, according to a spokesman for the Administrative Office of the U.S. Courts.

U.S. Supreme Court Chief Justice John G. Roberts Jr. also highlighted the importance of civics in his 2019 yearend report. “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,” he wrote.

“The judiciary has an important role to play in civic education, and I am pleased to report that the judges and staff of our federal courts are taking up the challenge,” Roberts continued.

At this year's ABA Annual Meeting, not only did the House of Delegates pass the civics education Resolution 300B, but the topic was also discussed during a showcase session titled “Hacking Democracy: Elections and Beyond.”

“Without an informed and engaged citizenry, democracy will collapse,” Spaulding said during the session.

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