

To: National Center for State Courts

From: GBAO

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## State of the State Courts – Survey Analysis

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This year's State of the State Courts survey shows that Americans still feel broad confidence in our court system, with state courts receiving the highest overall job approval mark yet in the six years of this project. Those with direct experience with the court system continue to express satisfaction with the fairness of their proceedings, and by a margin of more than two-to-one, they say it was easy for them to locate the people, places, and services they needed.

However, the current political environment in the country poses risks that seem to be influencing public attitudes toward the court system. Even as they give strong marks to the economy, Americans are increasingly distrustful of many pillars of our society, including government, large corporations, organized religion, colleges and universities, and other institutions. This survey reveals decreased confidence in all levels of the court system – the U.S. Supreme Court, federal courts, and state courts – and lower scores on a range of attributes related to court performance, customer service, and equal justice. The courts remain more popular than other parts of our government at all levels, but they are not immune from this period of deep public cynicism.

In addition to our regular tracking measures, this year's research also examined three areas identified by NCSC's advisory group as critical issues facing state courts across the country:

- **Court Communications:** Previous research has repeatedly shown that most Americans have low knowledge of the courts, so we asked which sources they are most likely to consult when they need more information and which sources they would trust most. We found high reliance on the courts' official website, traditional media, and personal relationships, especially among older Americans, but there are huge differences on these measures by age, and younger Americans are much more likely to both turn to and trust social media.
- **Opioid Crisis:** The number of Americans who view opioid abuse as a major problem has grown since we first explored this issue in 2017. While they see a role for courts in addressing this challenge, they still see opioid abuse primarily as a problem for health care providers, drug companies, and law enforcement. This research did, however, identify messages that state courts can use when building support for increased federal funding to address this issue.



- **Online Disinformation:** Court administrators and other judicial leaders face significant challenges in countering foreign efforts to use social media networks to spread disinformation about the U.S. justice system. Generating the requisite public and political pressure to ensure an adequate response will require significant education and consistent messaging from those most directly impacted by these disinformation efforts. But any such efforts must overcome very limited public understanding of the threat and the sharp partisan divisions that emerge as soon as the issue of Russian disinformation is broached.

The State of the State Courts is an annual national survey conducted since 2014 on behalf of the National Center for State Courts. This year, the survey shifted from interviews conducted by phone with live interviewers to an online survey of a representative sample of registered voters drawn from multiple national panels recruited by phone, text messages, and online. The following are key findings and recommendations based on a survey of 1,000 registered voters conducted November 18-23, 2019. The poll is subject to a margin of error of +/- 3.1 percentage points at the 95 percent confidence level.

## Key Findings

- **Courts remain more trusted than other government institutions, but confidence is lagging across the board.** As has been the case throughout this research, courts at the federal and state levels inspire more confidence than other segments of our government, but they are not immune from the decline outlined earlier. State courts in particular have seen a significant drop in confidence in this year’s survey, and we will want to continue to follow this to understand whether it is a long-term trend or a byproduct of the current political environment.

Confidence in Government Institutions			
	2019	2018	Change
	Conf	Conf	Conf
Local Police Department	77%	89%	-12%
U.S. Supreme Court	69%	73%	-4%
State Court System*	65%	76%	-11%
U.S. Federal Court System	65%	74%	-9%
Governor*	59%	60%	-1%
State Legislature*	58%	65%	-7%
*Question customized by state for each respondent			

It is important to note that the declines we see in confidence for both the federal courts and state courts are relatively consistent across demographic and ideological lines but are greatest among voters under 50 years of age and those who identify themselves as Independents (i.e. do not identify with either political party).

- **Overall job approval for state courts reaches highest point yet.** Despite the declining confidence noted above, ratings of the job being done by state courts reached a new high for the second year in a row. This was primarily driven by dramatically higher ratings among racial and ethnic minorities, although numbers did improve among white voters as well. While this is certainly very encouraging, it is clearly an outlier when compared to the decline in confidence and declines on a variety of attributes detailed below. This leads us to believe that this result likely has something to do with the change in methodology from phone surveys to online surveys, and we will want to track this metric in subsequent years with this new methodology to better understand the dramatic uptick in approval numbers among non-white voters, which seems incongruous with their consistently lower marks on other metrics.
- **Underlying attributes for state courts remain strong but reflect the decline in confidence in the courts and lack of information about the courts.** Overall, we see tremendous consistency across the range of attributes that we measure each year, although the change in methodology results in an increase in undecided responses that comes from those who previously expressed soft positive sentiments, producing an overall decrease across all positive attributes. Nonetheless, majorities still see state courts as *hard working* (55 percent) and fair and impartial (54 percent), while pluralities believe they *provide equal justice to all* (49 percent) and *provide good customer service to people in the court system* (46 percent) and represent *a good investment of taxpayer dollars* (46 percent).

On a similar set of measures of how well state courts are fulfilling their fundamental mission, we see declines across the board but majority approval of the courts performance on all but one measure:

	2019		2018	
	Agree	Disagree	Agree	Disagree
Courts in (STATE) are committed to protecting individual and civil rights.	59%	31%	70%	27%
Courts in (STATE) treat people with dignity and respect.	57%	31%	67%	30%
Courts in (STATE) serve as an appropriate check on other branches of government.	53%	33%	63%	30%
Courts in (STATE) listen carefully to what people appearing before them have to say.	53%	33%	64%	31%
Courts in (STATE) take the needs of people into account.	51%	36%	62%	34%
Courts in (STATE) are unbiased in their case decisions.	49%	38%	55%	41%

Areas of concern on this exercise remain the same – 55 percent see state courts as *political* and 44 percent as *intimidating*, while a clear plurality reject the idea that they are *innovative* (36 percent describes well, 48 percent not well) and voters are split on whether the courts are

*inefficient* (42 percent describes well, 42 percent not well). By a margin of almost 2-to-1, they say *state courts are not doing enough to empower regular people to navigate the court system without an attorney* (53 percent) rather than *effectively providing information and assistance so that individuals can navigate the courts system without an attorney* (28 percent). Similarly, in two parallel statement pair exercises, pluralities call for significant changes in internal operations and customer service in the state court system to better meet the needs of the people they serve.

***Across all of these tracking measures, we see many instances of softening positive attitudes but no corresponding increases in negative attitudes that would produce alarm. This underscores the theme of broad decline in overall confidence rather than any specific concern that must be immediately addressed.***

- **Those with direct experience in the courts continue to provide strong marks on procedural fairness and access to services.** By a margin of more than 3-to-1, those who have had direct experience in the state court system continue to say they were ‘satisfied with the fairness of the process in your dealings with the courts system’ (64% yes, 21% no). This metric has remained very consistent across our tracking. As usual, satisfaction with procedural fairness is higher among whites and among those with higher levels of education and income, but the differences are not dramatic.

Starting in 2017, we added an additional tracking measure asking whether those with direct experience in the court system found it ‘easy or difficult to locate the people, places, or services they were looking for.’ Again, the results of this question have been remarkably consistent, with 60% saying they found it easy to access what they needed, compared to 28% who found it difficult.

- **Exploration of information sources reveals different demands for different audiences.** We asked respondents which information sources they are most likely to consult when they need more information and which sources they would trust most; we also explored their own social media habits. This research confirmed patterns established in other research regarding large discrepancies in social media usage based on age, gender, and race/ethnicity. Facebook is by far the most ubiquitous social media outlet, used at least weekly by 60% of Americans, including 69% of those under age 50 and 68% of women. But it is among the less common social media outlets where the greatest differences emerge. Instagram is used at least weekly by just 30% of all voters – 58% of those under 40 and just 11% of those age 50 or older; 44% of African Americans and 56% of Hispanics, compared to just 24% of whites. We see similar age and race/ethnicity dynamics for Twitter and Snapchat, which has the youngest audience of all social media outlets.

When we asked what information sources Americans would turn to when seeking information about the court system, as well as how much trust they put into various information sources, we found a clear hierarchy, with the highest reliance on the courts’ official website, traditional media, and personal relationships. However, we also discovered huge differences on these measures by age, with younger Americans much more likely to both turn to and trust social media.

Information Sources and the Courts						
	Seek Information			Trust Information		
	Total	<50	50+	Total	<50	50+
The website for (STATE) courts	68%	72%	65%	55%	59%	51%
Local newspapers, or the website for local newspapers	65%	65%	65%	59%	64%	53%
Family, friends, neighbors, or co-workers	63%	66%	61%	71%	72%	70%
Local elected officials	52%	57%	47%	48%	56%	41%
Your church or other community groups	43%	47%	39%	64%	64%	65%
The social media account for (STATE) courts	38%	52%	26%	39%	52%	27%
Your social media, like Facebook, Twitter, or Instagram	34%	54%	17%	31%	46%	17%

This research clearly has important implications for court communications officials and administrative leaders as they seek to meet the needs of very different constituencies. As the communities they serve become younger and more diverse, they must meet these constituencies where they live – increasingly online and on social media – without neglecting the more traditional outlets upon which older Americans still rely.

- Growing concern over opioid abuse, but court system seen as playing only a supporting role in addressing this issue.** The number of Americans who view opioid abuse as a major problem has grown since we first explored this issue in 2017. The number who view opioid abuse as a major problem has increased from 61% to 65%, while the number who call it a major crisis has jumped from 26% to 31%. These increases come primarily from the South and the Midwest and among those without a college degree.

We conducted a split-sample exercise to explore who Americans believe bears responsibility for addressing this issue; half of respondents were simply asked how large of a role each of a variety of groups should play, while the other half were asked this after being informed of the impact of opioid abuse on state courts:

*Opioid addicts are 13 times more likely to be involved with the criminal justice system than those who do not suffer from the disorder, and the criminal justice system has become the single largest source of referrals to substance use disorder treatment programs.*

This information had a very small impact on voters’ attitudes regarding the relative responsibility of each group in addressing opioid abuse. Both splits placed primary responsibility on doctors, hospitals, and health providers, followed (in order) by drug companies, addiction counselors and non-profit support groups, and police and other law enforcement. The court system came in last in both splits, although the split that saw the statement above was five points more likely to assign a major role to the courts. Since 2017,

the level of responsibility placed on the drug companies has increased significantly, while the role expected of police and other law enforcement has declined a great deal.

While the courts are seen to play a supporting role relative to some of these other players, the fact remains that the opioid crisis is having a large and growing impact on the courts. To help court administrators make the case for greater resources to meet this challenge, we tested three messages – all of which performed moderately well and none of which stood out as significantly more impactful. Similarly, we did not see major differences between the statements across demographics, although there are some slight partisan differences which may be of use to court leaders depending on the partisan composition of their legislative and executive branches:

Opioid Abuse Funding Arguments (% Very Convincing/% Total Convincing)	Total	Dem	Ind	GOP	White	Af Am
Many states have seen their foster care caseload grow by 50% in recent years as the opioid epidemic takes its toll on children and families. With additional funding, courts can partner with child welfare agencies to create a child welfare system that strengthens families in crisis.	30/69	35/75	26/65	27/65	29/68	38/73
Because individuals affected with opioid use disorder are 13 times more likely to be involved with the criminal justice system than those who do not suffer from the disorder, courts must have the resources to develop an effective overdose response protocol.	29/72	37/77	24/64	26/72	30/73	32/68
The criminal justice system is the single largest source of referrals to substance use disorder treatment. More funding is critical so courts can be equipped with necessary resources, training and tools in order to successfully help fight the opioid epidemic.	29/69	38/76	24/65	25/66	29/69	39/73

- Court administrators and other judicial leaders face significant challenges in countering foreign disinformation efforts.** Most Americans come to this issue with a very limited understanding of this threat and a complex relationship with the ways they interact with social media and other information sources. The issue is further complicated by partisan overtones from the 2016 election, which lead those of differing partisan persuasions to approach the same facts and arguments in radically different ways. Generating the requisite public and political pressure to ensure an adequate response will require significant education and consistent messaging from those most directly impacted by these disinformation efforts.

The primary challenge is the decentralized, anonymous nature of the attacks against the courts. Without an ability to easily or systematically identify malicious messages, this disinformation reaches most Americans when it is forwarded by a trusted source, such as a friend or relative. While many Americans minimize their own social media usage when asked and claim they don't trust information they get from social media, other research has shown that they use social media more frequently than they even realize and quickly internalize much of this information without acknowledging it.

Awareness of Russian efforts to influence the 2016 election is quite high (only 11% say they have not heard about the issue), but there is disagreement based on partisanship about the scope and nature of the threat this represents:

Which of the following statements comes closest to your own understanding about this issue, even if no one statement is exactly right?	Total	Dem	Indep	Rep
Efforts by foreign governments to interfere in US elections represent a major threat to the security of our elections, but they don't really affect other aspects of our society or our security.	16	18	15	14
Efforts by foreign governments to interfere in US elections represent a major threat to our country as a whole because they are actually part of a much larger effort to pit Americans against one another by undermining public faith in a broad range of American institutions.	42	54	43	29
Efforts by foreign governments to interfere in US elections have been overhyped by the media and do not represent a major threat to our country. Whether in the news or on social media, it's up to us as individuals to decide what is real and what is not.	27	14	25	44

Once we gave respondents more information about the nature of these disinformation campaigns against the justice system, most recognized the seriousness of the threat (60% call it a crisis or major problem), although there are still partisan forces leading a disproportionate number of Republicans to dismiss the whole issue. Voters under 30 and over 50 are more likely to recognize this as a major threat, while 30-49 year olds are more ambivalent. Educational attainment is also a key variable here, with college-educated voters much more likely to recognize the threat and non-college voters (non-college men in particular) the least likely.

Those who understand the threat look first to the federal government for solutions (57 percent feel Congress has a responsibility to address it, followed by 49 percent who point to the U.S. military and intelligence services), then to social media companies (37 percent) and the courts (35 percent), and finally to the media. The more voters perceive these

disinformation efforts as a threat, the more likely they are to believe that primary responsibility lies with the federal government (either Congress or the military/intelligence communities). While virtually all subgroups within the country see this threat primarily as the responsibility of the federal government, those most likely to look to the courts for solutions include African Americans and those under 40 years of age.

Looking specifically at social media companies and specific steps they could take to address this issue, we tested two statement pairs, pitting a statement advocating direct action by these companies against an opposing argument focused on overreach and free speech. In both instances, majorities side with the former statement. A slim majority (52 percent) say ‘Social media companies have a responsibility to monitor their platforms and prevent foreign governments or extremist groups from using their technology to undermine our national security.’ A larger and more bi-partisan majority (59 percent) side with the following statement, ‘While free speech is important, foreign governments and Internet trolls do not have the same free speech rights as U.S. citizens. Deleting fake social media accounts is a common-sense measure that helps protect the rule of law.’ This second statement elicits more intense support, with its use of ‘the rule of law’ language and proposal of a specific solution giving it greater appeal.

Given the low level of information voters bring to this debate, it will be incumbent upon court leaders to adopt consistent communications that help frame the issue and demonstrate the need for aggressive action to address this threat. We tested a series of potential arguments in both the focus groups and survey; as expected given the soft attitudes and lack of information most voters bring to this debate, the differences between the messages were not dramatic. However, clear differences did emerge. The following stood out as the most effective messages:

*Our democracy is under attack, and we need an informed and engaged citizenry to keep it strong. We should put a renewed focus on civics education in America to remind us of our shared values and of the importance of our democratic institutions in preserving those values*

*Russia and other foreign adversaries are using social media and other tools to pit Americans against one another. They know that a divided America will be weaker in the world and less able to protect our economic or security interests. We have more that unites us as Americans than divides us, and we need to aggressively take on these efforts to weaken and divide us.*

Both of these messages begin by identifying the threat and then making appeals to unity and a common sense of purpose. The language around shared values and the importance of democratic institutions resonates most strongly among Independents and Republicans, especially older white men, while the message focused on what unites us as Americans appeals particularly to Democrats, African American voters, and Hispanics.