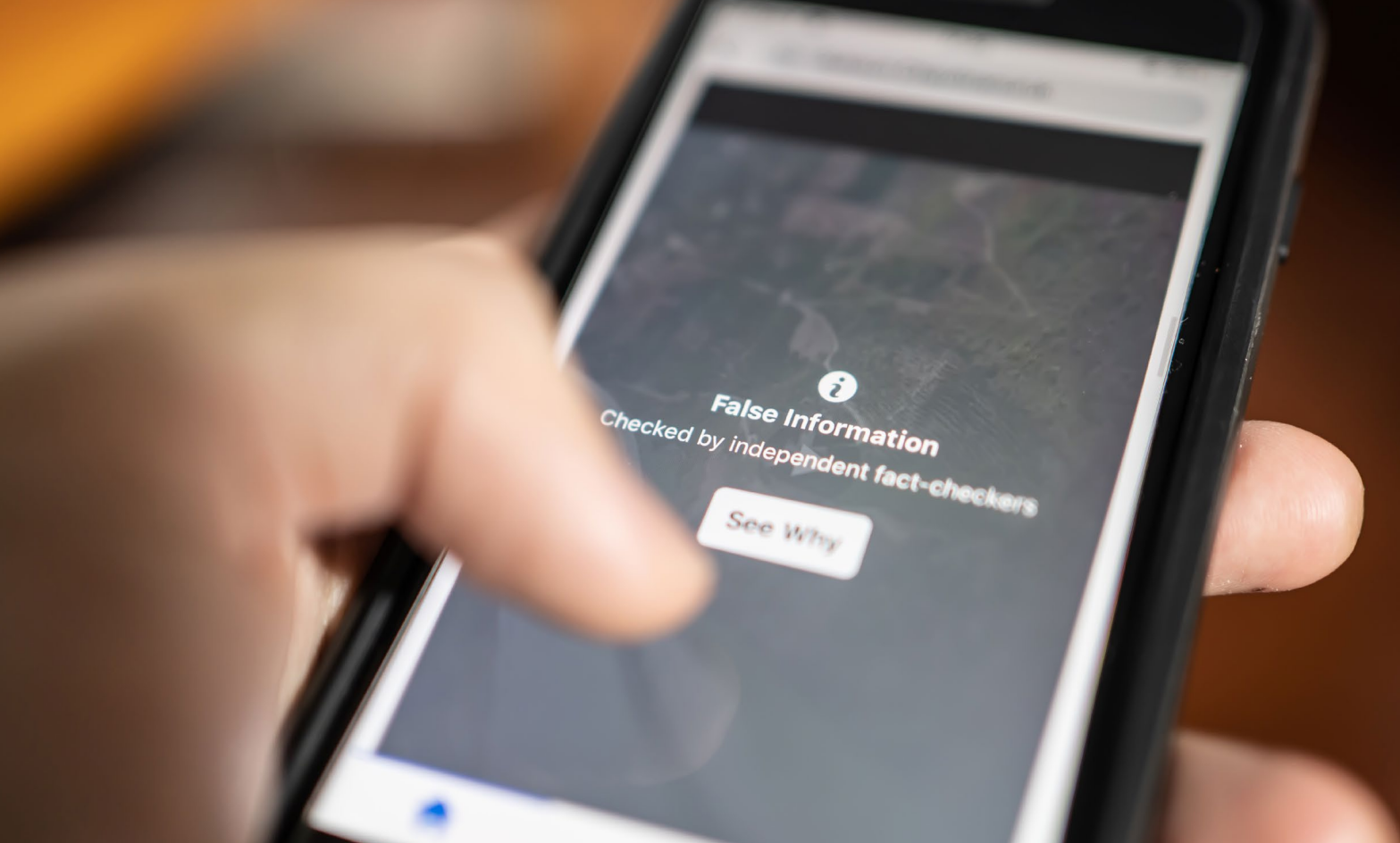


*Disarming
Disinformation—
Guidelines for Courts
to Combat Threats*



Disarming Disinformation— Guidelines for Courts to Combat Threats

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Every court will likely have to respond to a disinformation threat at some point. By adopting practices that reinforce consistent community engagement and communication and excellent customer service, courts can establish themselves as a trusted source of information to effectively combat disinformation when it arises.

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Confidence in our country’s democratic institutions, including the courts, is eroding. According to the National Center for State Courts’ (NCSC) most recent [State of the State Courts poll](#), public trust and confidence in the courts is at an all-time low (GBAO Strategies, 2022). One of the major drivers in this erosion of public perception is undoubtedly the explosion of disinformation and misinformation purposely aimed at eroding democratic processes.

The Rise of Disinformation and Misinformation in the Digital Age

Disinformation is false or inaccurate information that is spread deliberately, most often by foreign and domestic adversaries. Misinformation is false, inaccurate, or incomplete information that is spread mistakenly or unintentionally. Disinformation and misinformation are closely related; however, the distinguishing factor between the two is intent. Did the author knowingly and purposely create and spread false information to sow seeds of discord?

While digital devices (smartphones and tablets) and social media platforms have ushered in a new wave of connectivity, these tools have also provided an environment where disinformation campaigns can originate and thrive. According to the Pew Research

Center (2021), 85 percent of Americans own a smartphone, and 72 percent use social media platforms (Auxier and Anderson, 2021). Across the globe, which is home to roughly 8 billion people, there are about 6.84 billion smartphone¹ and 4.9 billion social media users.² With instant access to the internet provided by smartphones and the ability to self-publish through social media platforms, posts containing false information and organized disinformation campaigns can reach a global market in mere seconds.

Lies Spread Faster Than the Truth

The proverbial saying bad news travels fast is more applicable today than ever before. In 2018 three scholars from the Massachusetts Institute of Technology discovered that false news spreads more rapidly on social media platforms than true news, which had been verified by third-party sources. The study, conducted between 2006 and 2017, showed that false news stories were 70 percent more likely to be retweeted than true news stories, and that true news stories took about six times as long to reach people. A research paper, “The Spread of True and False News Online,” detailed that falsehood diffused significantly further, faster, deeper, and more broadly than the truth (Aral, Roy, and Vosoughi, 2018).

1 “Number of Smartphone Mobile Network Subscriptions Worldwide from 2016 to 2022, with Forecasts from 2023 to 2028,” Statista, at <https://perma.cc/J42U-SHHX>.

2 Daniel Ruby, “Social Media Users—How Many People Use Social Media in 2023,” Demand Sage. Last modified January 4, 2023, at <https://perma.cc/3629-U5NW>.

Attacks on Democracy and the Judiciary and Potential Court Impacts

At its root, disinformation and misinformation cause confusion among the public, which can lead to dire consequences. The Center for Strategic and International Studies' report "Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System" (Spaulding, Nair, and Nelson, 2019), states Russia used disinformation during national election cycles to influence public perception. The report contends that Russia nefariously and deliberately disparaged mail-in voting, highlighted alleged irregularities, and accused political parties of voter fraud—all in an effort to amplify mistrust in our electoral processes. Today, our nation is still feeling the effects of this activity. In a recent CNN poll, respondents said that they have little or no confidence that elections represent the will of the people (Sanchez, Middlemass, and Rodriguez, 2022).

Beyond national elections, the report also explains how Russia has used disinformation and misinformation to attack sitting judges. "These attacks are opportunistic and so far, have occurred in the wake of legitimate public controversy. Once the U.S. media spotlight is off the judges, Russian attacks subside, but not without first undermining trust in the impartiality of the courts in the process. The attacks on judges are meant to highlight corruption and the bias of judges in order to smear the judicial institutions they represent" (Spaulding, Nair, and Nelson, 2019).

When disinformation campaigns attack our democratic processes, they also attack our courts. Courts are legitimized by the government. Both must be seen as fair and truthful. In its work with the Brunswick Group, NCSC has identified six prevalent disinformation themes that are routinely used by adversaries, seeking to undercut faith in the courts. While themes can stem from existing and sometimes legitimate critiques of the judicial system, these disinformation themes grossly distort facts to denigrate the system and enrage skeptics. Triggering words and phrases describing the system's treatment of people based on gender, race, ethnicity, and social status often attract people to these themes. More on these common disinformation and misinformation themes, including key messages to counter them, can be found in NCSC's "Combating Disinformation: A Playbook Template for State Courts," which is available upon request at socialmedia@ncsc.org.



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Innovation Spotlight: Arizona’s Task Force on Countering Disinformation

Arizona has been at the forefront of combating disinformation. Through its [Task Force on Countering Disinformation](#), the Arizona Judicial Branch set forth a series of recommendations (2020) for its courts to identify and respond to disinformation. Some recommendations included establishing a social media presence and actively monitoring social media platforms for false information, identifying a central point of contact to respond to false information, and modifying its Judicial Code of Conduct to allow judicial staff to respond directly or through a third party to false, misleading, or unfair allegations. Perhaps the most notable recommendation of the Task Force was to stand up a Rapid Response Team through the Arizona Judges Association. Like the California Judges Association’s Response to Unfair Criticism Team, the Rapid Response Team assists staff in responding to unjustified adverse publicity or criticism that negatively impacts them as a court employee, the judiciary, or the legal system.

Building Resilient Courts to Withstand Disinformation Threats

Not every court will have the ability or desire to adopt a formal protocol to combat

disinformation like Arizona. However, all court administrators and public information officers need to be concerned about disinformation attacks undermining the judicial system’s integrity and exercise the utmost vigilance in protecting the court’s reputation. To become truly resilient to disinformation attacks and crises of any kind, courts need to build strong and authentic relationships based on trust and credibility with the public, media, and stakeholders, while implementing effective communication strategies centered around the needs of court users. By implementing the following recommendations, courts can strengthen their ability to withstand disinformation attacks should they arise.

Be Present and Engaged Online and In Person

To increase transparency and build trust, courts need to routinely engage with the public. Two-way communication can help to clarify court processes, reduce misconceptions about the legal system, and increase understanding of the court’s role in society.

While some courts like the [Indiana Court of Appeals](#) and [North Dakota Supreme Court](#) take their courts on the road, others invite students and adults alike into the courthouse for tours, presentations, and observations.³ In the Ninth Circuit Court of Florida, the public is invited to participate in the “[Inside the Courts](#)” program, a multiweek course that provides a behind-

3 See <https://perma.cc/2UCT-5NPC> (Indiana); <https://perma.cc/6FQS-XRU5> (North Dakota).



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the-scenes look at the court system.⁴ Program organizers report that since its inception in 1996, the in-depth, educational program has served more than 5,000 participants (Julio Semino, personal communication, received by Molly Justice, NCSC, April 17, 2023).

Speakers' bureaus, like that from the [North Carolina Judicial Branch](#), can also help both the courts and the public identify topics of interest—whether they are related to current events or provide greater insight into the routine work of the court. In many communities, civic organizations, schools, community groups, and others seek speakers

for membership meetings and other public events.⁵

Another way courts are engaging in their communities is through social media. With responsible management and oversight, social media allows courts to “meet people where they are” to share important information, such as court closures and holidays, and promote positive impact stories. The [Kansas Judicial Branch](#) and the [Supreme Court of Ohio](#) use Twitter to communicate news about oral arguments, opinions, job openings, and community outreach. The [District of Columbia courts](#) leverage YouTube to showcase updates from the court, along with informational videos and event coverage.⁶

Never Underestimate the Power of Communication

Former President Gerald Ford once said, “Nothing in life is more important than the ability to communicate effectively.” Good communication is just as powerful as having good relationships. Using a variety of channels, courts can inform and influence.

Regardless of the audience, it is important to use plain language to communicate concepts, information, and processes/instructions to court users. NCSC has developed plain-language resources, including an [online glossary](#) to assist with clear, direct writing

4 See <https://perma.cc/W5VB-FQRC> (Florida, “Inside the Courts”).

5 See <https://perma.cc/4JRQ-WQWT>.

6 See <https://perma.cc/BW63-KCUN> (Kansas); <https://perma.cc/4F82-5JSV> (Ohio); and <https://perma.cc/425B-F9RV> (District of Columbia).

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that can be understood by all.⁷ Plain language can also be helpful when summarizing cases and opinions similar to the supreme courts of [Missouri](#) and [Florida](#).⁸

In addition to the community activities previously addressed, courts can also work with media to disseminate information. Positive media relations are a two-way street, and courts should respond to media inquiries quickly and to the best of their ability. By doing so, courts demonstrate cooperation and a willingness to address or dispel misinformation and disinformation.

Courts can also build effective relationships with the news media through judicial-media committees like the one established in [Connecticut](#).⁹ By facilitating conversation between the media and the judiciary, these committees create a greater understanding of roles, responsibilities, and the law. These committees can be especially beneficial when dealing with a high-profile case or responding to a crisis.

Positive media relations can also lead to “good news” stories and opinion pieces. Adoption day and drug court graduation events allow the public to see firsthand how the courts work and can positively impact families and communities. Judges and court staff can also

provide greater context for their court’s work through op-ed essays and letters to the editor.

Always Put the Court User First

Courts must prioritize the needs of the people who use their services routinely to improve public trust and confidence in the court system. Deloitte’s most recent *Government Trends* report notes that digital technology can help courts achieve this goal by providing greater personalization and tailored services that are more effective and equitable (Boyd et al., 2023).

Courts are implementing a variety of technological solutions to make access to services easier for court users. These include remote and hybrid hearings, online payments, chatbots, and even the ability to select email, text, or app reminders for court appearances, like that offered by the [Nebraska Judicial Branch](#).¹⁰ Examples of online payment and remote payment options through kiosks and satellite business partnerships can be found in [Arizona](#), [New Mexico](#), [Colorado](#), [Delaware](#), [Massachusetts](#), [Nebraska](#), and [West Virginia](#).¹¹ Gina, the [Los Angeles Online Traffic Avatar](#), helps users find answers to common questions and connect them with relevant court resources.¹²

7 See <https://tinyurl.com/2773hm2z>.

8 See <https://www.courts.mo.gov/page.jsp?id=1944> (Missouri); <https://perma.cc/Z3FL-SH2W> (Florida).

9 See <https://perma.cc/9KD6-TPPJ>.

10 See <https://perma.cc/CQ2N-3CNE>.

11 See <https://perma.cc/U2F2-W5LK> (Arizona); <https://perma.cc/H7SV-WXEM> (New Mexico); <https://perma.cc/R9DH-PBZT> (Colorado); <https://perma.cc/8MUJ-7CCP> (Delaware); <https://perma.cc/J8VN-RGDH> (Massachusetts); <https://perma.cc/FX75-3V2F> (Nebraska); and <https://perma.cc/5CGC-FK7P> (West Virginia).

12 See <https://perma.cc/U22X-GLVL>.

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Additionally, many courts have adopted user-centered design to create physical spaces that are more accessible and welcoming to court users. This can involve signage, directories, and information desks that are designed with the user experience in mind.

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Conclusion

Disinformation poses a significant threat to the fairness, impartiality, and credibility of the judicial system. At some point, most courts will have to respond to a disinformation threat or full-blown attack. By building strong and authentic relationships based on trust and credibility with the public, media, and stakeholders and implementing effective communication strategies that cater to the needs of court users, courts can increase their resilience to these threats and attacks. This will minimize the susceptibility of those with whom the courts have developed relationships from falling prey to believing and propagating disinformation and false information when it arises.

Stated so eloquently in the COSCA policy paper “Courting Public Trust and Confidence: Effective Communication in the Digital Age (COSCA, 2022), “It is up to us, individually as court professionals and collectively as court systems, to restore and preserve belief in the judiciary through transparency in our action and clarity in our communications. We cannot accomplish this through a wall of silence in the face of bad information.”

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