

To: National Center for State Courts

From: GBAO

Date: November 21, 2022

2022 State of the State Courts – National Survey Analysis

In this year's State of the State Courts survey, we see greater movement on key tracking measures than we have seen in nearly a decade of annual surveys, as events in the broader political environment and key Supreme Court decisions have combined to dramatically impact the way many Americans view the judicial system at all levels. The shifts we see in this year's survey are not uniform across all tracking questions but are instead concentrated in measures of the U.S. Supreme Court and political bias in all levels of the court system; this suggests that the movement is driven by very specific events and concerns rather than broad sentiments about the courts as a whole or factors external to the court system. While we did not ask specifically about the cause of these concerns and loss of confidence in our survey, we feel it is safe to assume that ongoing focus on the Dobbs decision in the recent election and discussion of the politicization of the U.S. Supreme Court were driving forces behind these numbers.

Every year, this survey serves as a reminder that most Americans are not focused on the court system in their daily lives and have only the most rudimentary understanding of how these systems work. Educational messaging can move public opinions in the short term, but such messaging has to start from an understanding of how little time most Americans ever spend contemplating the issues that consume those working within the court system every day.

One area where leaders of state court systems can begin to educate residents of their respective states is the role state courts play and how far removed they are from the Supreme Court battles that dominate the political headlines. This starts with messages that emphasize the ability of state courts to better reflect the values and customs of the communities they serve and the historic preference of the country's founders for state constitutions and state courts as the first line of defense for our rights and liberties.

In addition to our key tracking measures, we used this survey to explore in greater depth a number of issues facing state courts and their leaders. We delved into Americans' complicated views on rising violent crime rates and the extent to which they believe state courts must bear some of the blame for this trend. We found that Americans believe there is some level of judicial accountability in the court system and identified accountability measures they believe are most impactful in ensuring judges do not abuse their power. Finally, we looked at how state court leaders can most effectively communicate with the public about the impact of mental and behavioral health challenges on the court system and how the public views some strategies for addressing these challenges.

The State of the State Courts is an annual national survey conducted since 2014 on behalf of the National Center for State Courts. The following are key findings and recommendations based on our online survey of 1,000 registered voters conducted October 22-25, 2022. The poll is subject to a margin of error of +/- 3.1 percentage points at the 95 percent confidence level.



Public Confidence

- Supreme Court leads accelerating loss of public confidence.** Last year, we saw a small but relatively uniform loss of confidence across all of the institutions we track on an annual basis. This year, we see confidence continuing to drop across the board, but the decline is markedly greater when it comes to the U.S. Supreme Court.

Confidence in Government Institutions	2022	2021	Change
	Conf	Conf	Conf
Local Police Department	75%	78%	-3
State Court System*	60%	64%	-4
U.S. Federal Court System	57%	60%	-3
State Legislature*	55%	56%	-1
Governor*	54%	56%	-2
U.S. Supreme Court	53%	63%	-10

*Question customized by state for each respondent

The idea that the U.S. Supreme Court would rank last in this metric would have been unthinkable just five years ago, when confidence in the institution stood at 76 percent, higher than all others on this list except the local police. We see smaller declines in confidence for the federal and state court systems, but both are nonetheless at their lowest level in our decade of tracking.

For all three levels of the court system, the decline in confidence is driven by two related variables – race and ideology. Looking back five years, there was virtually no difference in views of the Supreme Court based on ideology; since then, confidence in the Supreme Court has fallen 3 points among conservatives (from 76 to 73 percent), 25 points among moderates (from 76 to 51 percent), and 45 points among liberals (from 75 to 30 percent). In just the last year, confidence has fallen by 19 points among liberals and 15 points among moderates while actually increasing 2 points among conservatives. We see similar, albeit smaller, trends in views of federal and state courts. Looking at race, confidence in the Supreme Court dropped 9 points among white voters and 19 points among Black voters; for the federal courts, the decline was 1 point among white voters and 7 points among Black voters, while it was 2 points among white voters and 7 points among Black voters for the state court system.

- Public approval of state courts’ job performance improves slightly.** Despite declining confidence in the state courts, which we see driven by events in the broader political environment, evaluations of their job performance actually increased slightly from last year. Just under half (49 percent) of voters rate the courts’ job as *excellent* or *good*, and 51 percent rate it as *just fair* or *poor*, compared to 44 percent rating it as *excellent* or *good* and 55 percent rating the courts’ job as *fair* or *poor* in 2021. This slim majority providing a negative rating has been fairly consistent since we first asked this question in 2014. Demographically, ratings of the state courts’ job performance remain significantly higher with white audiences than voters of color, higher with men than women, and higher with older

voters than younger voters. Unlike the confidence metrics above, we see virtually no ideological or partisan differences on this measure.

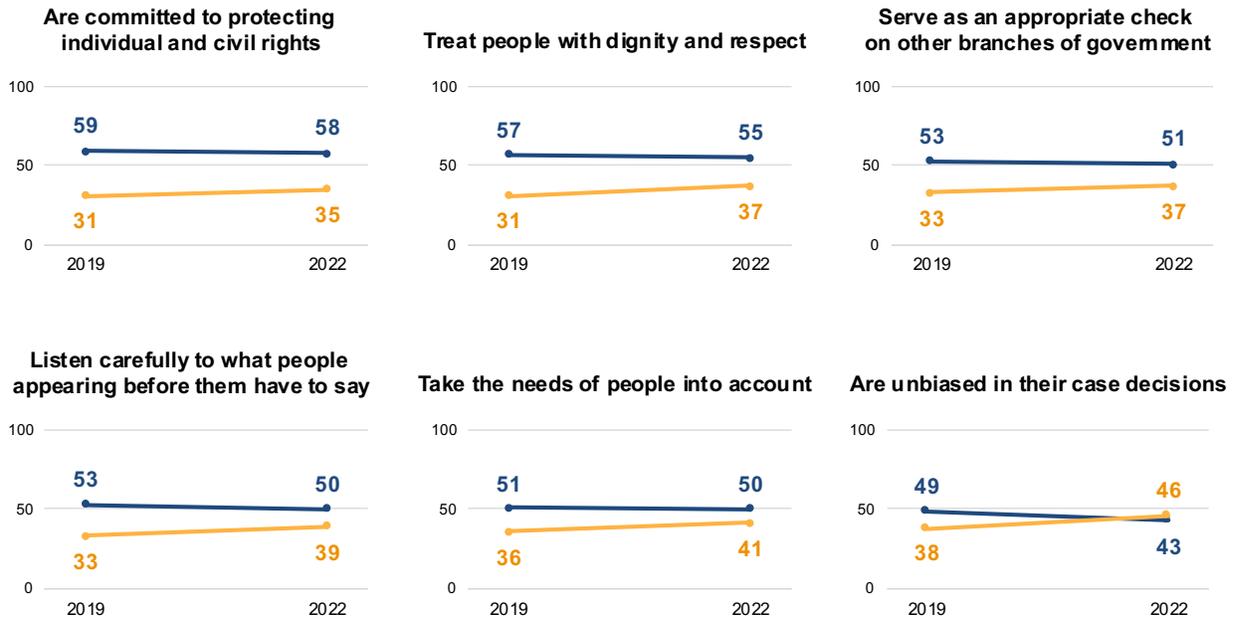
- Largest shift on state court attributes is on bias.** Every year, we ask how well a series of positive and negative descriptors apply to the court system in each state. We saw declines on most of the positive attributes, but the largest net drop came on *fair and impartial*, a measure of bias that reflects some of the concerns we feared would surface as confidence in the courts declines along ideological lines. It is particularly worrying to note the consistent increase in the number of people who say these positive attributes do not describe the courts in their state well. We now see two attributes rejected by a majority, *innovative* and a *good investment of taxpayer dollars*, while *provide equal justice for all* is rejected by 49 percent. On all of these measures, women and people of color are far less likely to associate any of these positive attributes with the court systems in their respective states.

State Courts – Positive Attributes	2022		2021	
	Well	Not Well	Well	Not Well
Hard working	52%	40%	55%	36%
Fair and impartial	47%	47%	50%	42%
Provide equal justice to all	43%	49%	46%	47%
Provide good customer service to people in the court system	41%	44%	41%	45%
A good investment of taxpayer dollars	40%	51%	43%	48%
Innovative	33%	53%	33%	53%

Looking at the negative attributes we tested, there was much less notable movement. Voters were split on whether the courts in their state are *inefficient* (44 percent describes well, 43 percent not well) or *intimidating* (44 percent describes well, 45 percent not well) – both have changed little over a number of years now. After a small drop in 2021 in the number who said the courts in their state are *political*, we see a return to previous levels this year (56 percent describes well, 33 percent not well).

- New lows on court systems’ success in fulfilling their mission.** We tested a series of statements we hadn’t asked since before the pandemic, measuring how well state courts are fulfilling their fundamental mission, and we found new lows on all of them. Most concerning is the shift on state courts being *unbiased in their case decisions* from double digit agreement in 2019 (+11) to net disagreement (-3). Majorities agree with the other measures tested, but the margins of agreement have narrowed. Still, voters agree by wide margins that state courts *are committed to protecting individual and civil rights* (+23), *treat people with dignity and respect* (+18), and *serve as an appropriate check on other branches of government* (+14). The margin of agreement is smaller for how state courts receive people with matters before the court when it comes to listening (+11) or understanding their needs (+9).

Courts in (STATE).... ● Agree ● Disagree



Remote Access

- More are open to interacting with the court remotely, but hurdles persist with seniors.** In 2020, new and widespread use of videoconference tools during the pandemic translated to large majorities embracing the idea of reporting for jury duty, serving on a jury, or appearing for a case remotely. As online fatigue set in and the world opened up, these numbers declined in 2021. This year, we find openness to remote participation in court activities has returned to 2020 levels. Seven in ten (71 percent) would participate in remote jury screening, and this spans all age groups. While six in ten are willing to participate remotely during a trial or in pre-trial activities, there is more apprehension among older adults, particularly seniors, to engage with the courts in this way. Fewer than half (48 percent) of seniors would serve on a jury remotely, and more seniors say they would not appear remotely for a case than would do so (44 percent would appear remotely, 47 percent would not appear remotely).

Remote Access <i>(arrows indicate year over year change)</i>			
% would use via video conferencing if available	2022	2021	2020
Report for jury duty and undergo screening for jury selection	71% ▲	60% ▼	72%
Participate remotely in an arbitration, mediation, or other procedure where a neutral third party helps opposing sides reach an agreement and avoid a trial	62%	--	--
Serve as a member of a jury in a trial conducted remotely	61% ▲	49% ▼	64%
Appear remotely for a case you had before the court	59% ▲	52% ▼	64%

Remote Access by Age			
% would use via video conferencing if available	<50	50-64	65+
Report for jury duty and undergo screening for jury selection	70%	72%	69%
Participate remotely in an arbitration, mediation, or other procedure where a neutral third party helps opposing sides reach an agreement and avoid a trial	67%	62%	54%
Serve as a member of a jury in a trial conducted remotely	67%	60%	48%
Appear remotely for a case you had before the court	67%	58%	44%

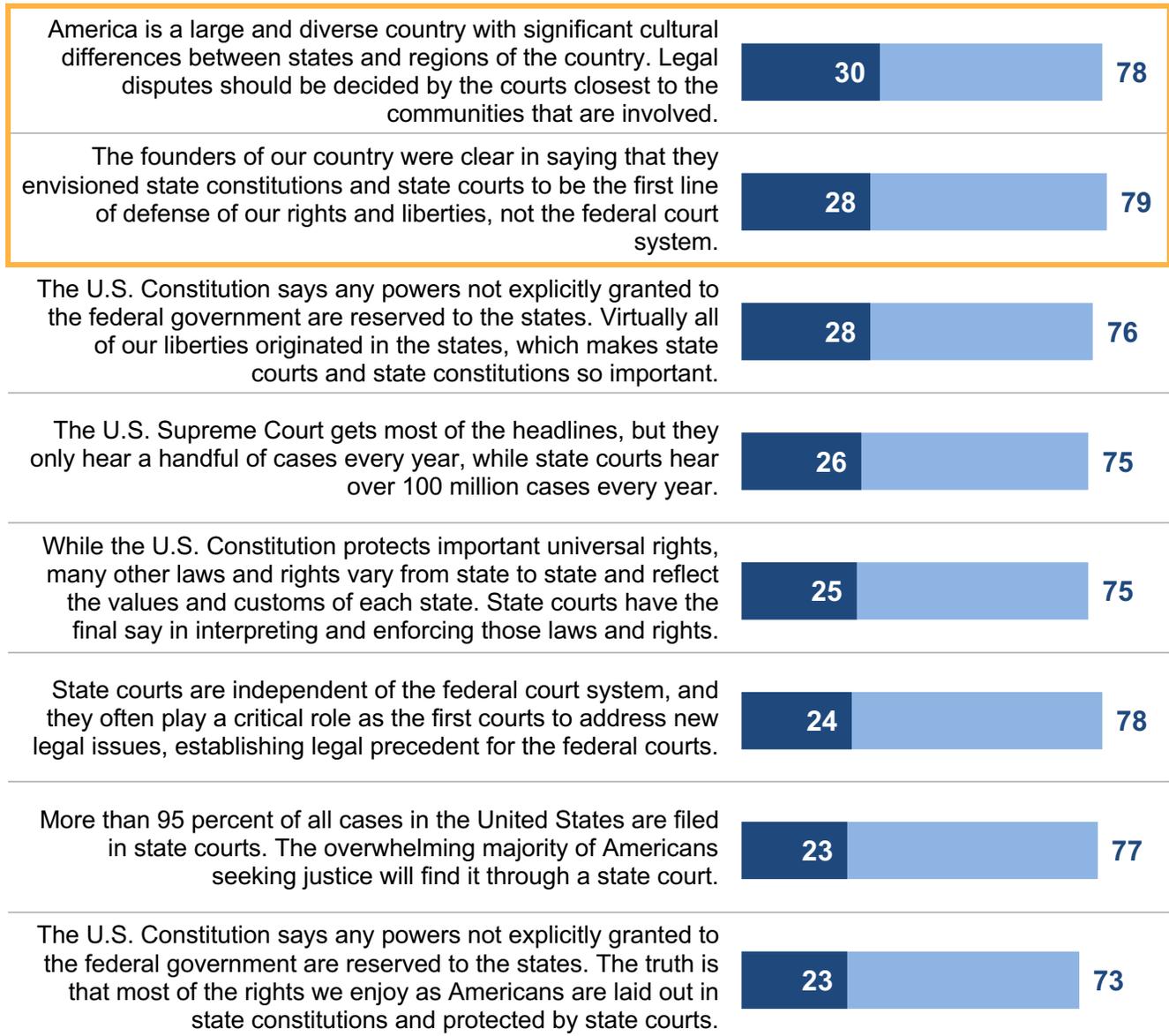
Differentiating the State Courts

As we know from our previous research, most Americans have little understanding of the court system overall or the differences between federal and state court systems. The large decline in confidence in the U.S. Supreme Court in this year's survey results and the dominance of the U.S. Supreme Court in public discussion of courts underscores the importance of differentiating state courts. We worked with leaders in individual court systems around the country to identify messages that could meet ordinary Americans where they are in terms of understanding of the courts while also underscoring the unique role of state courts and educating voters about their importance.

We provided respondents with a series of statements about state courts and asked them how effective each is in explaining the role of state courts and why they are important. While all arguments differentiating the courts are largely effective, those that receive a stronger reaction both in intensity and overall effectiveness emphasize state courts are better positioned to understand the communities they serve and that the founders intended for state courts to be the primary protectors of our rights and liberties.

Below are some statements* about the role of the state courts in our country's judicial system. Please tell me how effective each statement is in explaining the role of the state courts and why they are important for people like you.

● Very Effective ● Total Effective



*All statements were split sampled and asked of half of the voter sample.

Violent Crime

- Half report violent crime is a crisis or major problem in their community.** Overall, 15 percent say violent crime is “a major crisis” and another 35 percent consider it a “a major problem, but not a crisis” in their community. Another third (33 percent) say it is “a minor problem,” while just 17 percent say it is not a problem in their community. Black and Hispanic communities are more likely than white voters to report violent crime being a crisis or major problem (Black: 66 percent crisis/major problem, Hispanic: 61 percent, White 46 percent). But there is a gender divide among White voters, with White women expressing heightened concern about violent crime (50 percent crisis/major problem) compared to White men (41 percent). The perceived threat of violence crime is not an area of partisan or ideological divide.
- For most, courts share at least some blame for rising violence crime.** When asked how much blame state courts should bear for the rise in crime in communities across the United States, 70 percent say the courts deserve at least some blame (“a great deal” or “some”) with only a quarter (25 percent) saying “a great deal” of blame. Only 9 percent say state courts deserve “no blame” and another 21 percent say “only a little” blame. While violent crime is a highly politicized and partisan issue in the current political environment, there is very little partisan or ideological gap on this measure, as broad majorities of virtually every subgroup agree that state courts must bear at least some of the blame for rising violent crime.
- The reasons for courts’ culpability vary along ideological and generational lines.** Delving into the question of why courts must bear some blame for rising violent crime, Americans are divided over whether it’s because the courts are overworked and lack resources (42 percent) or it’s because of leniency in sentencing (44 percent), with views divided significantly by ideology and age. Conservatives and older voters are more likely to lay blame on a system with lenient sentencing policies leading to recidivism, whereas liberals and younger voters see a system that is overburdened, preventing it from delivering justice in a fair and timely manner.

Which of the following do you think is MORE to blame when it comes to rising violent crime?	Total	Lib	Mod	Cons	<50	50+
The court system is too lenient, handing down weak sentences and letting violent criminals back on the streets	44%	26%	43%	58%	39%	50%
The court system is overworked and has too few resources, resulting in backlogs of cases and an inability to deliver justice in a fair and timely manner	42%	59%	41%	33%	50%	34%

Judicial Accountability

- Voters tend to believe judges operate in a system that holds them accountable, but views are malleable.** By a 2-to-1 margin, voters agree that “judges are expected to make rulings based on the Constitution, the law, and the facts of each individual case, and our judicial system does a good job of holding them accountable and ensuring they do not abuse the power of their office” (62 percent agree, 30 percent disagree). However, few voters have strong opinions on this statement, with only 20 percent in strong agreement and 10 percent in strong disagreement, leaving the door open to attitudes changing – especially in an environment where confidence in these institutions is declining. Nearly three-quarters (73 percent) of white men see a system impervious to corruption, but agreement drops among groups that are historically underrepresented on state courts – white women (59 percent), Black voters (57 percent) and Hispanic voters (55 percent).
- Checks and balances more compelling than transparency as means of enforcing accountability.** All of the accountability measures tested in this survey were widely deemed to be effective. However, when focusing on intensity of these measures, a system that holds itself accountable through judicial review, adherence to an ethical code, and trial by jury does more to reinforce trust in the courts than measures of public transparency.

While rules and laws differ from state to state, below are some policies designed to hold courts and judges around the country accountable for their rulings. Please indicate whether you believe each of the following policies would be effective in ensuring courts and judges only make decisions based on the Constitution, the law, and the facts of each case.

● Very Effective ● Total Effective



Behavioral Health

- Proof points about the impact of behavioral health issues on state courts systems demonstrate the urgency of needing to address the issue and an opportunity for courts to lead.** Because few voters come to the table with anything more than an elementary understanding of courts systems and even fewer understand the connection between behavioral health and the courts, we presented the topic by drawing a line between the two before introducing our proof points.

A recent survey found that over 90 percent of Americans believe the country is currently facing a mental health crisis. This has a significant impact on the state court systems, as courts have increasingly become the place where individuals with untreated mental or behavioral health issues end up.

After this intro, we presented several proof points about the impact of mental and behavioral health on the courts and criminal justice system. All evoke an overwhelming belief that these present major problems or are a crisis for state court systems, with little differentiation between them. Across the board, four in ten consider the proof points evidence of a crisis and three-quarters or more identify each of them as evidence of a crisis or major problem.

Below are a series of facts about the impact of behavioral health issues on the court system and the criminal justice system in this country. Please indicate how you would characterize each of these facts when it comes to the impact on state court systems.

	Crisis	Crisis/ Major Problem	Crisis/ Major Problem	
			<50	50+
Individuals with untreated behavioral health issues are dramatically more likely to end up involved with law enforcement or the court system	42%	82%	79%	85%
Once an individual with behavioral health issues enters the prison system, they are more likely to commit a crime or face worse mental health outcomes and less likely to secure a job or stable housing	42%	78%	76%	80%
The rate of substance use disorders is seven times higher among those in jail than in the general population	44%	74%	76%	73%
The rate of serious mental illness is four to six times higher in jail than in the general population	41%	74%	76%	71%
Nearly 2 out of 3 individuals in local jails suffer from mental illness	41%	74%	76%	71%

- Overwhelming support for state courts to take action on behavioral health issues.**

With the severity of the problem before the courts established, voters widely agree on all steps courts can take to better support individuals before the court with behavioral health issues. Connecting individuals to support services, treatment programs, and specialized dockets for behavioral health issues all find broad agreement across groups. But when looking at strong agreement, a hierarchy emerges, with voters showing stronger agreement for state courts connecting individuals with support and treatment services at every stage of the judicial process (42 percent strongly agree). Agreement is nearly as strong for state courts diverting low risk individuals to treatment programs over prison (39 percent strongly agree). Slightly weaker in intensity is support for specialized dockets (35 percent strongly agree), but this is also an option that voters may be least familiar with and may require more education. All of these efforts find more intense support among Democrats and Black voters.

State courts should be focused on connecting individuals with behavioral health issues with appropriate support and treatment services at every stage of the process, whether it's pre-trial or post-trial							
	Total	Dem	Ind	Rep	White	Black	Hisp
Strongly Agree	42%	51%	43%	31%	41%	57%	44%
Total Agree	81%	87%	79%	77%	83%	87%	79%

State courts should try to divert individuals with behavioral health issues who are charged with misdemeanors and considered a low risk to commit future crimes into treatment programs rather than the prison system							
	Total	Dem	Ind	Rep	White	Black	Hisp
Strongly Agree	39%	45%	40%	32%	39%	47%	39%
Total Agree	79%	84%	76%	75%	80%	82%	73%

State courts should develop specialized dockets for individuals with behavioral health issues that would ensure their cases can be resolved in an expedited manner so that their condition does not worsen while awaiting resolution of their case							
	Total	Dem	Ind	Rep	White	Black	Hisp
Strongly Agree	35%	43%	34%	26%	33%	43%	37%
Total Agree	78%	84%	74%	75%	79%	83%	73%