

To: National Center for State Courts

From: GBA Strategies

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## **2017 State of the State Courts – Survey Analysis**

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The latest edition of the State of the State Courts research, an annual national survey conducted on behalf of the National Center for State Courts, reveals consistency across several years now on core measures of job performance and public trust in state courts. As has been the case throughout the course of this research program, the courts remain the most trusted branch of government, even in this period of extreme partisanship and deep distrust of many public institutions. But there are also well-established areas of concern, as Americans continue to express doubts about political bias in the court system and judges who are seen as out of touch with the communities they serve.

Access to justice in rural and under-populated areas is another area of concern that we explored in this year's research, with nearly 3-in-4 Americans identifying it as a problem and nearly 1-in-3 saying it is a major problem. While they are divided on the best solution to this problem, there is broad agreement that the status quo is unacceptable.

As caseload burdens and the strain they put on the court system continue to grow, there is an increasing focus on self-representation and what steps state courts can take to make it easier for individuals who wish to represent themselves. This survey shows that most Americans still view the court system as too complicated to allow for self-representation, but it also identifies a number of specific customer service challenges and relatively simple solutions that courts can take to make customers more comfortable navigating the system. Public concerns about complexity in the court system can't be solved overnight, but it is clear there are steps that states can take in the short term to catalyze long-term gains.

As public outcry over the growing opioid epidemic in our country increases and courts across the country wrestle with how to address this growing crisis, we asked some preliminary questions to establish how Americans view the issue and the role of the courts in addressing it. We found that, while broad majorities of Americans view the issue as a problem, there are significant differences in opinion on its severity along demographic lines. There is, however, broad agreement that the proper role of the courts in addressing this issue is in support of the health providers, counselors, and other support groups on the front lines of this epidemic.

The following are key findings and recommendations based on a survey of 1,000 registered voters conducted October 28 – November 1, 2017. The poll is subject to a margin of error of +/- 3.1 percentage points at the 95 percent confidence level.

- **Courts remain the most trusted branch of government.** Voters continue to express more confidence in the judicial branch than in the executive and legislative branches in their respective states. Ratings of the legislative branch are at their lowest point in the five years of this research program, but confidence in the courts is holding steady even in this difficult political environment.
- **Little change in views of court performance, attributes.** The number of Americans rating the performance of their state courts as excellent or good stands at 44 percent in this survey, a very slight 2-point decline from a year ago. Ratings of the state courts on a range of attributes show similar consistency – up or down a couple points but no dramatic movement that either raises concerns or signals a rapid improvement in public perceptions. The good news is that majorities still say each of the positive attributes tested – *hard-working* (64 percent), *fair and impartial* (58 percent), *provide equal justice to all* (54 percent), *provide good customer service to people in the court system* (52 percent), and *a good investment of taxpayer dollars* (51 percent) – describes the courts in their state well, except for one exception – *innovative* (42 percent, but up 3 points from a year ago).

Similarly, when asked whether they agreed or disagreed with a series of statements about whether the courts in their state live up to fundamental duties of the court system that our research has identified as central to public perceptions of the role of the judiciary, majorities agree with each, ranging from 68 percent on *committed to protecting individual and civil rights* to 55 percent on *unbiased in their case decisions*. All responses in this battery fall within the narrow range we have seen in previous years.

The overall sense of stability in perceptions of the courts is reinforced by a new directional question we added this year. When asked whether, based on their own experiences or what they have heard from others, the customer service provided by courts in their state has gotten better, gotten worse, or stayed about the same in recent years, more than 2-in-3 (69 percent) say it has stayed about the same, with the rest evenly divided between getting better (12 percent) or worse (10 percent). This question also reveals no significant differences based on key demographic variables.

- **Concerns about influence of politics on judges and the broader court system stand out as a persistent concern.** In 2014 and again in 2015, we explored attitudes about political bias in the court system and particularly in how individual judges are selected and how their decisions are impacted by personal biases. Given the current political climate, we thought this year was a good time to revisit these important measures. Neither has moved significantly from previous marks, indicating the political environment has not exacerbated the problem, but the lack of movement underscores the enduring doubts expressed in these measures.

<b>Political Bias and the Judiciary</b>			
	<b>% Agree</b>		
	<b>2014</b>	<b>2015</b>	<b>2017</b>
Judges in (STATE) courts make decisions based on an objective review of facts and the law.	48	48	50
Judges in (STATE) courts make decisions based more on their own beliefs and political pressure.	46	47	47
In general, those chosen to serve as judges in (STATE) courts are selected based on their qualifications and experience.	43	43	43
Too many judges in (STATE) courts are there because of personal connections or political influence rather than their qualifications for the job.	51	53	53

- Judges perceived as out of touch with communities they serve, public calls for greater engagement and empathy.** An extension of doubts about bias in the judiciary is a sense that judges do not understand the people who appear before them in their courtrooms and need to learn more about the challenges facing ‘everyday people.’ There are also critical differences on this measure based on race and age.

<b>Judges Seen as Out of Touch</b>					
	<b>% Agree More</b>				
	<b>Total</b>	<b>White</b>	<b>Afr. Amer.</b>	<b>&lt;50</b>	<b>50+</b>
In general, judges in (STATE) courts reflect the values of our communities and understand the challenges facing the people who appear in their courtrooms.	36	38	19	33	38
Too many judges in (STATE) courts don't understand the challenges facing people who appear in their courtrooms and need to do a better job of getting out into the community and listening to people.	60	58	78	64	56

There is also a significant gap in intensity on these two measures, with 45 percent strongly siding with the statement saying judges don’t understand the people they serve and only 20 percent strongly saying judges reflect the values of their communities.

When asked in an open-ended format what they believe judges need to hear and to learn about their communities, responses were primarily focused on empathy at a community and individual level – treating all people equally, understanding the economic challenges facing so many families and the cultural diversity of their communities – more than specific issues. And virtually no respondents volunteered responses that had to do with the court system itself or processes and procedures; these are certainly concerns, as we see elsewhere in this

research, but they pale in comparison to the more visceral disconnect too many Americans feel between themselves and the judges who serve their communities. In many ways, these feelings reflect broader public frustrations with government in general.

- **Most Americans recognize the challenge of delivering justice to rural and under-populated areas as a problem but mixed on solutions.** Nearly 3-in-4 respondents identified this issue as a problem in their state; 30 percent identified it as a major problem, while 43 percent see it as a minor problem and 22 percent as not a problem in their state. While there are differences on this measure based on population density – 29 percent major problem among urban residents and 28 percent among suburban residents versus 34 percent among rural residents – the differences are not stark. Instead, it is region of the country that stands out as the most important variable on this question. Just 16 percent in New England and 24 percent in the Mid Atlantic rate this as a major problem, compared to 43 percent in the Southwest and 37 percent in the Deep South.

Looking at potential means of addressing this solution, the first takeaway is that the status quo is not a viable option, as only 13 percent say we should continue to require residents of these areas to travel to the nearest courthouse to access court services. However, only another 13 percent view building and staffing more courthouses to serve these areas as a viable option. The rest are divided between two solutions:

- *Give residents of these areas the choice of traveling to the nearest existing courthouse or waiting for a traveling judge and court staff to visit their area every few months (36 percent)*
- *Allow residents of these areas to conduct all court business online or via videoconference (32 percent)*

However, we actually split sampled the second choice, with half hearing this proposal to include actual trials and half hearing it to except actual trials, and there was a noticeable difference. Among those who heard it to include actual trials, this choice trailed the traveling judge option by 13 points (39 to 26 percent), but among those with trials excepted, the online option was preferred by 5 points (38 to 33 percent).

- **Despite cost, most Americans express preference for lawyer over self-representation.** By a margin of nearly 2-to-1, Americans say they would prefer to retain a lawyer when dealing with the court system, despite the cost, rather than represent themselves, even if more self-help resources were made available.

<b>Lawyer vs. Self-Representation</b>		
	<b>Strong</b>	<b>Total</b>
Despite the cost, I would want to be represented by a lawyer anytime I was dealing with the court system.	53	63
If the courts made more self-help resources available, I would prefer to handle a problem myself rather than have a lawyer represent me.	24	34

The disparity in intensity between these two choices is striking and demonstrates how strongly the preference for a lawyer is held among a majority. But looked at another way, it shows that 1-in-3 would prefer self-representation, and this is a significant number that would make a meaningful impact if courts can provide them with the tools they need to confidently represent themselves in the court system. At the present time, it is clear that most feel the courts are not doing enough to provide those tools.

<b>Court Support for Self-Representation</b>		
	<b>Strong</b>	<b>Total</b>
(STATE) courts are effectively providing information and assistance so that individuals can navigate the court system without hiring an attorney.	15	30
(STATE) courts are not doing enough to empower regular people to navigate the court system without an attorney.	42	62

When asked to identify the customer service concerns that make it harder for them to navigate the court system, two primary concerns jump out – *not knowing where to turn for help with forms and procedures* (37 percent) and *rude, unhelpful, or intimidating court staff* (35 percent). Forms and procedures are a particularly significant concern for older voters, especially older women, while younger and non-white voters express the greatest concerns about court staff. Those two primary concerns were followed by three other concerns that also garnered significant support – not knowing where you need to go in the courthouse or how to get there (29 percent), the amount of time spent at the courthouse (27 percent), and not being able to complete forms or pay fees online (24 percent).

- **Relatively simple steps emerge as most impactful policy prescriptions.** Asked to identify policies that would have the greatest impact in improving the customer experience for those dealing with the courts, respondents prioritized common-sense solutions that reflected the top concerns they had previously established.

<b>CUSTOMER SERVICE POLICY PRESCRIPTIONS</b>		
	<b>Significant Impact</b>	<b>Total Impact</b>
Plain-language legal forms with basic language and instructions so that non-lawyers can understand and complete them	59	84
The ability to connect with court staff online or by phone to answer your questions rather than traveling to the courthouse	55	85
Online self-help services that allow users to file a form, pay a fine, or take other actions online instead of coming to the courthouse	52	82
An easy-to-navigate court website	46	80
A resource desk in the courthouse dedicated to answering customers' questions about the court system	43	79
Self-help kiosks to guide visitors through the steps they need to take to file a form, pay a fine, or take other actions within the court system	36	79

- **Clear majority see opioid problem as a significant challenge in their community.** More than 1-in-4 (26 percent) identifies this issue as a crisis, while another 35 percent view it as a major problem. Just 17 percent see it as a minor problem, while another 17 percent say it is not really a problem in their community. Critical differences on this question emerge along lines of race, gender, and population density, with whites, women, and those living in rural communities much more likely to express concern about the impact of opioids on their local community.

We also asked respondents how large of a role they felt a number of key groups should play in dealing with this issue. Not surprisingly, Americans want all groups tested to play some role, but they also display a clear sense of who should play a larger role.

<b>Role in Addressing the Opioid Issue</b>	
	<b>% Major Role</b>
<b>Tier 1</b>	
Health providers	79
Addiction counselors and non-profit support groups	75
<b>Tier 2</b>	
State and local governments	68
The police and other law enforcement	67
The drug companies	67
<b>Tier 3</b>	
The court system	52
The federal government	48

These results suggest that most Americans see the health providers, counselors, and other support groups on the front lines of this epidemic playing the greatest role, with the court system and federal government still expected to play a role, but more in support than leading the charge. The tiers defined above largely hold true across demographic lines, although African Americans and Hispanics are slightly more likely to see a major role for the court system.