

**Task Force on Countering Disinformation
State Courts Building, Phoenix
Meeting Minutes: February 19, 2020**

Members attending: Aaron Nash (Chair), Fredric Bellamy (arrived 1:25), David Bodney, Jessica Fotinos (by proxy, Tiarra Earls Haas, arrived 1:19), Hon. David Fuller, Eduard Goodman (telephonic), Joe Hengemuehler, Patience Huntwork, Hon. Todd Lang (by proxy Amy Love), Krisanne LoGalbo (telephonic), Deborah Schaefer

Absent: Hon. Bradley Astrowsky, MJ Abril, Dawn Gilpin, Pete Dunn, William Long, Scott Ruston, Hon. Donald Watts

Guests: Hon. Jeremy Fogel (ret.) (telephonic), Ryan Fox (telephonic), John Osborne (telephonic), Lori Ford, Lorraine Patterson, Malinda Sherwyn, Beth Breen

AOC staff: Alicia Moffatt

1. Call to order. The Chair called the meeting to order at 1:19 p.m. when a quorum was present. **Task Force members are reminded to secure a proxy as soon as they are aware they cannot attend a meeting, as a quorum is required to conduct Task Force business.**

The Chair welcomed guests and members and took Item No. 3 out of order to allow the Task Force to hear from the guest presenters.

2. Approval of minutes. After hearing from the presenters in Item No. 3, the Chair announced a grammatical correction to the minutes and called for additional corrections to the January 15, 2020 meeting minutes. None were offered.

Motion: A member moved to approve the minutes. The motion was seconded and passed unanimously. CDTF: 09

3. Guest presenter. Hon. Jeremy Fogel (ret.) Executive Director, Berkeley Judicial Institute

The Chair introduced Jeremy Fogel, a retired judge whose duties included educating judges on cyber security and technology. Judge Fogel noted that cyber-attacks and disinformation campaigns against the judiciary are relatively new and the problem at this point is that people don't understand or appreciate the threat. Cyber-attacks against the federal judiciary increased over 200% between 2017 and 2019. Some attacks could be verified as coming from state actors, including China, Russia, North Korea, and Iran and their activities vary by their governments' interests.

The Center for Strategic and International Studies (CSIS) has done in-depth research into disinformation and the courts. Russian president Vladimir Putin has been explicit that he intends for Russia to prevail over western democracies through creating distrust in western governments. Discrediting a person or institution leads to cynicism in the public, which makes it easier to

manipulate public opinion against U.S. institutions. One example is from Twin Falls, Idaho, where disinformation was spread that the local government was covering up an attempt to protect Syrian refugees from criminal prosecution. In fact, there were no Syrian refugees in the town and access to information and records from the juvenile court case the disinformation was based on was nonpublic, as is typical in juvenile cases. Regardless, the public reaction to the story resulted in the assigned judge's home address being publicized on social media, which resulted in the judge being threatened – all based on disinformation, some of which was traced to Russian sources. Other examples are available from around the world where bad actors prey on the public's fears and beliefs.

The big social media companies are struggling with tracing social media posts to foreign actors to prove they are behind the posts. Tracing disinformation to sources can lead to removing those sources from the social media hosts' platforms. An unanswered question is what if cyber-attacks lead to hacking into official records and changing them at the source? The solution is that the public, judges, and judicial branch staff have to support the judiciary and guard against foreign attacks. Judicial branch employees need to be knowledgeable about cyber security and be regularly trained. Humans with lack of knowledge or training in how cyber-attacks work are the weak link most likely to let in a cyber-attack.

A member asked how one could go about proving the source of a message. There are clues in some URLs used by foreign actors, but most court personnel do not have the tools or technological sophistication to produce actual proof. Members asked about raising awareness of actions the courts are taking to promote accuracy and how to respond to false, unsubstantiated messages. Judge Fogel stated that responding to false messages can help maintain trust and that the courts need bar associations and the public to do more than they are to proactively counter false or misleading messages quickly. Deliberate or reckless falsehoods require a rapid response from the judiciary or on behalf of the judiciary. Retired judges are a good resource because no cases are pending before them or are likely to come before them. Media questions can be referred to retired judges as subject matter experts. Judge Fogel recommends putting together a group of public members, lawyers, and retired judges to serve this rapid response role.

A member asked about local, regional, and national insight into disinformation campaigns. Judge Fogel stressed that a local response is important to local issues, and that it would be helpful to network local groups with each other to share information and that information sharing can then expand to regional and national groups, but that local responses to local issues should remain a part of the courts' strategy. Part of trust is hearing from someone you're more likely to know, like a local judge and not a spokesperson from another state.

Judge Fogel recommended focusing on each person and court's cyber security – to protect their records, data, and personal privacy now and practice good “cyber hygiene” - recognizing the dangers and weak points related to cyber-attacks. Courts and judicial branch employees should be enlisting bar associations, public opinion leaders, and the media as allies. People in the judicial branch should stay within the rules and requirements, but talk about process and procedure and what judges do. What courts do, and the fact that judges are people like the rest of the community, should not be a mystery to the public. Civic education is important and valuable.

Regarding judicial officers, Judge Fogel stressed that judges help themselves when they include a “why” in their decisions. A good legal mind is one aspect of being a judicial officer, but they also need to be good communicators, able to express their decisions in understandable language and in a culturally-aware, empathetic, and respectful manner – particularly in the emotionally-charged case types of criminal and family. This goes a long way to trust, confidence, and goodwill. A judge’s decision is less likely to be attacked when that judge is seen and heard in their community, when “why” the decision was made is clearly stated, and when those in the judicial branch regularly explain the court system, such as what plea bargains are, how they are negotiated, who decides them, what sentencing guidelines require, how probation officers come to their recommendations, and similar explanations that don’t require legal advice or violate judicial restrictions.

Lastly, Judge Fogel agreed that courts and traditional media reporters need better communication to accurately inform the public about court-related issues. Working with journalism students and school groups helps, as education is an ongoing process and something for each new generation of student and reporter.

Guest presenter. Ryan Fox, Founder of Yonder.co.

The Chair introduced Ryan Fox, founder of Yonder.co, a company that works with private sector companies and government agencies to monitor foreign and domestic messages online. Mr. Fox’s background includes counter-intelligence work and how social media messaging was used to promote recruiting for terrorist organizations and how Russia specifically was able to implement similar strategies at scale.

Unlike individual judicial branch employees, Yonder can monitor specific topics being discussed online and to identify groups or individuals who are disseminating messages. Their work is primarily in international political issues and foreign influence. They identify clusters of accounts working together to spread a message. Sometimes that activity is harmless marketing (Chair’s note: think hashtags on The Tonight Show – where a hashtag becomes a worldwide trending topic quickly after being announced on the show). Sometimes cluster activity is connected to a foreign-state-sponsored message or narrative. Yonder detects both types and can trace them to their sources.

Mr. Fox gave an example where tracing was able to present evidence that in 2016, Russian agents acted to suppress the vote in U.S. elections by posing as U.S.-based African Americans posting about Blue Lives Matter and Black Lives Matter. Messages were targeted to African American individuals and once they had interactions, they promoted messages of reasons not to vote and not to trust the government. Most foreign agents rely on information that can be verified or has a basis in truth to then weaponize that information or events to influence opinion and behavior. As another example, if foreign agents find out a protest is scheduled somewhere (a factual event independent of the agents’ actions) the agents will work to make the protest larger, louder, and potentially violent. This is part of a global intent to destabilize other governments – to engage with, enable, or anger groups at the fringes and to further radicalize radical groups. When countries are occupied with internal disagreements they are less able to focus outwardly.

Yonder avoids referring to “bots” which conjures images of artificial intelligence. Most coordinated campaigns are from accounts owned by individuals, but those individuals are being directed to spread specific messages and they are doing so with software that enables them to amplify the messages beyond what they could manually do without amplifying software.

Lastly, Mr. Fox stated that it is possible to detect and identify disinformation campaigns. That ability needs to be paired with a counter-messaging response.

4. Discussions. The Chair invited workgroups to report their progress to the Task Force.

Workgroup 1. The Chair presented the members an update on the survey results so far. Response rate was more than 60% and responses were received from all 15 counties in Arizona. Workgroup members will continue to vet the responses for a baseline of what the judiciary in Arizona understands as disinformation and the extent of activity.

Workgroup 2. Ed Goodman presented the workgroup’s progress to the Task Force. Jessica will be meeting with Kristy Roschke from the Cronkite School of Journalism and the workgroup anticipates that Kristy will present to the Task Force in March. Kristy works with the Cronkite School’s News Co/Lab and they recently hosted a workshop with a group that helps journalists deal with disinformation. The information Kristy will present from that workshop-and other resources-will help inform the Task Force’s work. The News Co/Lab anticipates having public information related to disinformation posted online in the summer.

The workgroup recommends, and the Task Force agrees, it would be helpful to hear from Commission on Judicial Conduct Director Margaret Downie for input and clarity on how those in the judicial branch are allowed to interact with the media and the public when communicating in general and specifically when responding to inaccuracies. The Task Force seeks guidance on where the boundaries should be when making recommendations.

Workgroup 3. Krisanne LoGalbo presented the workgroup’s progress to the Task Force. The workgroup met with local Assistant U.S. Attorney Emma Marks recently about the Federal Foreign Agents Registration Act (FARA). The discussion suggested that trying to duplicate federal efforts at the state level would be unwieldy and a tough sell to Arizona’s legislature. FARA’s website provides public registration information and the workgroup considered whether an Arizona state agency would agree to draw-down the federal information and post any Arizona-specific information on an Arizona agency webpage to make it available to the public. That might become a recommendation after further review.

The workgroup plans to meet with the Administrative Office of the Court’s (AOC) Jerry Landau on February 27 for his opinions and input on potential legislation or non-legislative options related to the Task Force’s charges and will report back on that at the next meeting.

The workgroup suggested the AOC could create a website for the public, similar to the recently-released AZCourtCare website (<https://azcourtcare.org/>) where the public could access resources for teachers, a place to report disinformation campaigns, and for other resources. If such a page

is created by the AOC or others, it would have to be monitored and maintained, which would have to be further discussed. The workgroup will put recommendations together for a Task Force vote.

A member stated that mandatory training in new judge orientation should include disinformation and the value of the judge's demeanor when dealing with litigants. The education should stress how the judge's positive demeanor improves trust and confidence in the courts while not doing so promotes distrust and disinformation. The same concept should be part of all judicial branch training – highlighting the consequences of daily interactions with and treatment of the public.

A member suggested reaching out to the courts to review what's being done statewide in different courts in new judge and new employee orientation – to see what is working well and combining those ideas into recommended practices for all courts.

A member stated that Ryan Fox's demonstration from Yonder was instructive and could be considered for the courts' yearly ethics or cyber-security topic in 2021.

5. Roadmap. The Chair encouraged members to draft recommendations to present to the Task Force. Upcoming presentations include representatives from Arizona State University, the National Center for State Courts, and the Federal Bureau of Investigations (FBI). If the Task Force can hear from the FBI, that portion will be heard in executive session – as required by the FBI's protocols and as provided for in the Code of Judicial Administration-due to security-level information in the content.

6. Call to the public.
Malinda Sherwyn, Beth Green, Lori Ford, and Lorraine Patterson addressed the Task Force.

7. Adjournment. The meeting adjourned at 4:30 p.m.

Next meeting: Tuesday, March 17, 2020, beginning at 10:00 a.m.
Arizona State Courts Building, Conference Room 345 A/B
1501 W. Washington St., Phoenix, AZ 85007