

Arizona State Supreme Court Countering Disinformation Task Force  
Working Group 1—Report to the Task Force

**Overview**

Among the tasks assigned to the Arizona Supreme Court Countering Disinformation Task Force was a need to understand the general awareness by court officials of mis- and dis-information activities and to gain insight into the prevalence of these activities affecting Arizona courts. Put another way, the Task Force sought out whether court officials knew about disinformation and whether there were examples available to analyze and therefore better understand the problem in Arizona. To accomplish this goal, the Task Force formed Workgroup 1 to conduct a survey of court officials throughout Arizona, analyze the results of the survey, and make recommendations based on the findings.

To assist Workgroup 1 and the Task Force as a whole to fulfill its mandate, the Task Force developed the following definition of disinformation:

“False, inaccurate or misleading information that is deliberately spread to the public with the intent to undermine the democratic process, sow discord, profit financially, or create distrust of government institutions. Disinformation should not be confused with misinformation, which is false information shared by those who do not recognize it as such, or with legitimate criticism, protest or censure of government actions, institutions or processes.”

**Survey Details**

To fulfill its mandate, Workgroup 1 developed an online survey for Supreme Court justices, court of appeals judges, adult and juvenile probation chiefs, superior court clerks, all superior court judges, all justice court judges, all municipal court judges, the clerks of the courts of appeal and the supreme court, superior court administrators, justice and municipal court administrators, the Administrative Office of the Court’s director, Arizona’s tribal courts, and federal judges working in Arizona.

The link to the survey was sent by email to 584 individuals on January 2, 2020, and 223 responses were received by the January 17, 2020 response deadline. The survey provided respondents with the approved Task Force definition of the term “disinformation,” and included five questions and associated response options (See Appendix xx at p. xx). The survey also gathered demographics information such as role in the courts, years of experience in courts, location and level of court within the state, and gender. (See Appendix xx at p. xx). Respondents could opt-in to having their responses included in public documents. Of those who responded, 33 agreed to follow-up conversations on their responses and Workgroup 1 members reached out to each of them.

## Analysis

### *Qualitative analysis of survey responses*

The qualitative responses to survey questions about experiences with disinformation were manually coded through systematic, iterative review of the text to identify themes and patterns. No predetermined coding scheme was used, preferring an inductive method to avoid imposing expectations or bias and letting the respondents' answers guide interpretation. What emerged was a set of categories, some of which focused on the types of behavior described, others on the individuals, groups, or institutions involved. These categories are set forth in Table 1 below; Table 2 identifies the various actors.

The category of "Online activity" can be seen less as a discrete class of behaviors, and more as a means of amplifying and disseminating behaviors that occur in other categories. The wide dissemination of accusations of bias or corruption, or misleading statements about the judiciary, increases their reach and potential impact on the public. It is important to note, however, that our survey was not designed to measure the reach of any of these online activities, and therefore we only point out the *potential* for such activity to extend mistrust of the judiciary to the broader public—our survey was not designed to assess whether it has actually done so.

The findings indicate there is widespread confusion within the judiciary about what constitutes disinformation, what forms it may take, and where it may come from.

The main categories of phenomena identified by respondents are:

- **Accusations of judicial wrongdoing.** One of the categories of perceived disinformation most frequently mentioned by respondents had to do with instances when the individual, or court, was accused of some kind of wrongful behavior. These might include accusations of corruption or fraud, of bias for or against certain types of defendants, or of politically motivated decision making based on partisan loyalties. While malicious actors might indeed try to undermine faith in the impartiality of the courts by making such accusations, or amplifying claims made by others, the more likely explanation is that these accusers are people unhappy with decisions made by the courts.
- **Legal disagreements and misunderstandings.** Another common pattern referred to people claiming that court decisions were incorrect, or describing the facts of the case in ways that survey respondents felt misrepresented the actual circumstances. Here again, from a disinformation perspective, it's difficult to distinguish between good-faith misunderstandings or disagreements and those that might be made to purposely damage the reputation of the judiciary.
- **Disruptive actions in courtroom settings.** A number of respondents referred to incidents in which groups enter the courtroom to disrupt proceedings, often recording or live-streaming events on their phones. These disruptions tend to be coordinated by people who feel they have been wrongfully treated by the courts or who challenge their authority, and videos may be edited to present an unfavorable impression of the judicial

system. As such, these actions fall into a grey area with respect to our working definition of disinformation.

- **Fraudulent actions.** Some respondents described seeing counterfeit court orders, or hearing of “juror scams” conducted via telephone. These seem to be more accurately classified as fraud than as disinformation.
- **Media inaccuracies.** Several respondents complained about media coverage of judicial proceedings and court decisions. Some of their complaints referred to inaccurate or misleading reporting, while others dealt with dubious “research” making false claims about the workings of courts in Arizona, disseminated through consumer media or academic journals. Some respondents acknowledged that the media sometimes issues corrections to initial reports, often based on the reporter’s lack of legal knowledge or as an apparent effect of a rush to publish, rather than deliberately malicious acts.
- **Online dissemination.** Many respondents complained of information published online, whether on websites or social media, in text accounts or recorded videos. Most of these incidents involved the same kinds of phenomena described in the other categories, but given greater visibility via the internet. In this sense, they are not so much examples of distinct phenomena but rather of amplification, which can contribute to the spread of disinformation efforts where those may be occurring. They can also be the work of people acting in good faith who have encountered mis- or disinformation and believe they are helping to inform others by passing it along. This category also includes fake social media accounts, or the use of inaccurate or misleading information in online marketing efforts (such as YouTube videos) by attorneys.

For a full summary of results, including sample quotes from survey responses, see Table 1.

While Workgroup 1 found no clear evidence of coordinated disinformation campaigns, the data do point toward mistrust of courts and judicial institutions among some members of the public, which in some cases is exacerbated by media reports or statements by influential public figures. This mistrust, if widespread, may represent a vulnerability in our democratic system akin to that caused by inadequate civics education. These vulnerabilities are in turn ripe for exploitation by malicious actors, whether domestic or foreign, and could therefore open the door to future disinformation operations.

Table 1 – Typology of examples of “disinformation” by survey respondents

Category	Subcategory	Sample statements or sentiments
Accusations of judicial wrongdoing	Accusations of corruption or coverup	Comments that the court does not want people to know what is going on, that judges protect certain individuals or classes of people, or that courts don’t protect individual rights.
	Politicization of the courts	“The media reporting who appointed a judge. The implication is that judges are loyal [to] that person or political party. This affects the perception of impartiality.”

	Accusations of fraud	Statements that the court or a judicial officer manipulated the official record. These statements are sometimes posted repeatedly on external, private social media sites and are posted in response to unrelated posts on a courts' social media accounts.
	Accusations of child/sex/organ trafficking	This series of accusations appear on social media as posts or videos, often related to juvenile or family court matters. Claims include that the foster care system and government agencies take children and "traffic" them for sex or for organ harvesting.
	Accusations of bias toward or against identity categories	These statements claim (sometimes of the same court or individual) that the court or judge has a bias in favor of men or women, or exhibits race or faith-based biases.
	General accusations of misconduct	"Comments/false allegations on social media. Specifically accusing judges of 'making citations disappear from other jurisdictions'."
	General accusations of bias	Statements made against courts or judges without a factual basis or by omitting facts. For example, saying a judge refused to hear from a party when the individual was not a party or had already been dismissed from a case. Statements that judges act based on political registration or ideals, rather than facts and law. Statements that the courts and all government agencies conspire to provide justice to some, despite the system of checks and balances and the courts' appellate processes designed to protect all.
Legal disagreements and misunderstandings	Disagreement with rulings	Characterizing a court's ruling as unfair, unreasonable, or unlawful because the outcome was not what the party argued for or wanted.

	<p>Misunderstandings about judicial processes</p>	<p>Traditional media articles and private social media statements that misstate the facts of a case, including the reason a defendant was released from custody, why a party’s argument was untimely or inappropriate for a specific proceeding, and many other misstatements of what procedure, due process, rule, or law require. Quoting individuals who are unrelated third parties to proceedings and who have not demonstrated subject matter expertise in the stated issues.</p>
<p>Disruptive actions in courtroom settings</p>	<p>Attempts to influence the public</p>	<p>Especially pronounced in family court and juvenile court, interest groups post false and misleading information about Arizona law, court rules, procedures, constitutional requirements, and the judicial officers and staff who work in these areas. Beyond good-faith disagreements in interpretation or implementation, these claims disregard case law and characterize people and decisions as corrupt and invalid. These actions are often an effort to pressure judges to favor fathers, mothers, or other parties in individual cases, and to influence the public and the legislature to support their worldview.</p>
	<p>Attempts to intimidate judges</p>	
	<p>Unauthorized recording or livestreaming of judicial proceedings</p>	<p>Consistent with case law, many courts have limited recording in courthouses. Self-described First Amendment Auditors, parties, and non-parties have streamed or broadcasted live from courthouses and courtrooms or have later posted recordings or images to social media, at times revealing jurors and others who have not consented to being recorded. Despite posted notices and explanations of the limits, and the fact that most proceedings are open to the public, the recordings are posted with comments that courts do not want people to know what is going on or misstate the limits as unconstitutional or suspect. Some of the recordings are taken in a manner that appears to encourage disruption or to trigger a confrontation, which suits the theme of the social media channel.</p>

Fraudulent actions	Fake court orders	Court documents altered for numerous reasons. Examples include changes to suggest no criminal history, custody and parenting time arrangements that contradict the official record, and documents intended to influence employment and housing decisions.
	General fraud	For example, email and telephone scams, such as threats of arrest or alleged warrants or missed jury service that can be resolved by sending payment to someone pretending to be a court representative.
Media inaccuracies	Inaccurate or misleading reporting	Media reporting that misstates or mischaracterizes facts. Even if inaccuracies are later corrected, the correction does not reach all who saw the first version. Examples: Characterizing a recording/video restriction as banning “the media” from the courtroom or from taking pictures of the outside of a courthouse; characterizing a move from Grand Jury use to preliminary hearings due to a lack of jurors in a way that made the public think that people would no longer be charged or held accountable for committing crimes.
	Dissemination of false “research” through media and academic publications	In some parts of Arizona, case volumes are so low that a magistrate only needs to work part-time to maintain the court’s caseload. This was mischaracterized as a systemwide operation and used to suggest that judges should only be paid for two days of work, despite plentiful public information on court case volumes and statutory pay structures.
Online dissemination	Online fraud through fake accounts	Social media forums offer nearly unlimited opportunities for unaffiliated groups or individuals to pose as courts and judges or to establish lookalike accounts to mislead the public, promoting mis- and disinformation, and to lower the public’s trust and confidence in the justice system.
	Defamatory information posted online	Judicial officers have been accused of kidnapping children in family and juvenile court cases, of colluding with

		<p>the prosecution or defense (depending on the person making the claim), of taking kickbacks on fines or fees or unnecessarily holding hearings to generate fines and fees in situations where those funds are statutorily distributed to other places and don't go to the court in question, and of participating in relationships that would be inappropriate or unethical in relation to a case before them. Court staff have been accused of trafficking children based on legislative proposals or based on positions taken on procedural matters.</p>
	<p>Inaccurate information about Arizona law posted online</p>	<p>Various theories about how and whether Arizona's constitution applies to situations, based on Arizona's date of statehood, whether the flag in a courtroom has decorative fringe or not, what Arizona's statutes purportedly require or allow, and contrary interpretations of law and procedure that have been resolved in case law.</p>
	<p>Incorrect explanations of rulings posted online</p>	<p>Litigants and others incorrectly describing or characterizing the results of a hearing or the reasons stated in an order. Judicial officers who report similar events acknowledge that it can be difficult to determine which incorrect explanations are attempts to decrease public confidence in the judiciary, which are misunderstandings, and whether the person making the statements is trying to cast themselves in the best light during a difficult situation.</p>
	<p>Fraudulent "news" sites</p>	<p>Amateur and professional websites or outlets that deal in absolutes, specifically promoting the narrative that all courts are corrupt or unfair and those outlets promoting conspiracy theories.</p>
	<p>Inaccuracies about the judicial system posted online</p>	<p>"The mother of a suspect in a criminal misdemeanor case utilized her Facebook account to comment on the Court's operational procedures stating that the Court was holding non-public hearings, which was less than truthful."</p>

	False information about retention and direct elections posted online	Judges who appear on voters’ ballots for retention or election report that in election years, false and misleading information circulates about them on the internet. In one example, a judge was targeted with a bumper sticker campaign saying his rulings violated the constitution, a campaign arguably intended to influence the judge’s future rulings and to influence his election campaign. Judges must be mindful of false information, that it may be designed to affect their electability, and so they can counter those messages when meeting with the public.
	False information used as marketing tactics for attorneys	Some attorneys validly produce social media videos with their opinions on judges and courts and the attorneys’ unique approach to certain types of cases. In one video, however, an attorney mischaracterized how a judge conducts cases, cited a specific criminal procedure rule and advertised that, if hired, he would provide clients a better outcome (that this rule would not actually allow). Other marketing tactics include absolutes: “Judge X always rules for the prosecution/defense/mothers/fathers, etc.”
	General false information posted online	This category often includes those who audio or video record an event or encounter and then edit it before posting so it appears like the court, individual, or event was inaccurate, inappropriate, or otherwise is manipulated to discredit an individual or the court system.

Survey respondents named different types of individuals and groups as responsible for the actions described. These ranged from parties to court proceedings, whether litigants or attorneys, to elected officials, formally and informally constituted groups, and political parties. See Table 2 for more details.

Table 2 – Typology of actors named by survey respondents

	<b>Private</b>	<b>Public</b>
<b>Individual actors</b>	Litigants	Elected officials
	Attorneys	

<b>Groups</b>	Family court activists	Political parties
	Sovereign citizens	
	First Amendment auditors	
	Self-described “constitutionalists”	

*Narrative analysis of described disinformation events*

While individual news articles, social media posts, and videos might contain pieces of information that are false and misleading and distributed with ill intent, the destabilizing nature of disinformation campaigns are magnified when these individual elements become *narratives*. Narrative is particularly powerful rhetorical form because it offers a framework for understanding the world through cause and effect, presents characters or agents with whom audiences identify, and charts a pathway to resolve conflicts or grievances. These components combine to evoke emotion and to express values. Of utmost concern to the judiciary are narrative systems in which the trajectories only resolve in justice outside the judicial system or those that resolve in injustice and unfairness leading to conclusions that the judiciary does not uphold societal values.

While this survey was not optimized to collect primary evidence of disinformation (i.e., the posts, videos, articles themselves), the anecdotal evidence provided by the survey respondents points to some repeating narrative elements. Individual character attacks about specific judges allegedly engaging in criminal or unethical behavior, combined with claims of system wide malfeasance (e.g., kidnapping and trafficking of children) to establish a narrative in which the judicial system is evil and corrupt, and in which justice is not possible. As such a system has the potential to fuel mistrust in the competency, independence, and virtue of the courts system, further investigation collecting primary evidence and conducting deeper narrative analysis is warranted.

The emotionally charged and unfounded claims against the justice system could have a disproportionate negative effect on the public’s perception of courts when, in fact, millions of court events take place each year in Arizona’s courtrooms where controversies are resolved peacefully, opposing parties reach agreements, families are provided stability and direction, victims are heard and receive restitution, and the criminal justice system works to balance community safety and individual accountability.

**Conclusions**

The first and strongest conclusion the workgroup drew from its survey was that knowledge of disinformation is not consistent across the Arizona’s judiciary. This applies to perceptions of the severity of the problem (numerous responses of “no, haven’t seen any”), as well as understanding how to distinguish disinformation from litigants and inaccurate reporting.

Furthermore, the survey cannot evaluate trust or mistrust of the judiciary by the public, which is a key concern of the Task Force. However, there is enough anecdotal evidence of activities, events and examples of a type that could be exploited by disinformation actors, both foreign

and domestic, for malicious purposes. Therefore, additional studies specifically designed to assess the scale of the examples revealed by the survey, as well as studies designed to measure the relative confidence and trust in the judiciary by the general population, are both warranted.

## **Recommendations**

After conducting this survey and analyzing the results, Workgroup 1 makes the following recommendations to the Task Force:

1. Final report recommendation: Include definitions and examples. While the survey responses are not comprehensive and consist primarily of secondary evidence (descriptions of perceived potential disinformation rather than the primary evidence of a web posting, newspaper article, online video, etc.), they provide sufficient data to conclude that no broad based consensus exists among court officials as to what constitutes disinformation. The report and recommendation's broad audience will benefit from seeing the categories of types of content and activities commonly cited in the survey (as representative of what court officials have encountered), examples of each category, and evaluations of whether the examples meet the Task Force definition of disinformation.
2. Task Force Recommendation. Establish education and strategic communication outreach. Numerous examples identified by the survey and subsequent follow up phone calls indicate there is a lack of awareness or understanding of judicial procedures, jurisdictions, and how these elements of judicial process support democratic and civic values. This knowledge void exists both within the general public and among journalists covering the courts. Workgroup 1 recommends that the Administrative Office of the Courts (AOC) engage in an education and strategic communication outreach program, including workshops to educate journalists and advocacy for civics education in secondary schools. The strategic communication component should include: regular, repeating, small scale education (e.g., public service announcements); a consistent and active social media presence that announces court actions connecting the court action to the values of the judiciary and upholding the rule of law; and the construction (at the AOC level) of pro-active narrative templates for court communication.
3. Task Force Recommendation. Advocate for further study. While the survey achieved the goals directed in AO 2019-114, it raised other, novel questions to pursue. The survey did not reveal significant hotspots of disinformation activity, but the results did indicate that misinformation is prevalent, potentially eroding faith in the objectivity and sanctity of the judiciary—not because of malicious intent, but because of a lack of accurate information, consistently delivered.

Misinformation can be exploited by disinformation actors, as described by subject matter expert assessments of the targets of the 2016 election meddling, manipulations of social media (both by foreign actors and domestic groups) related to racial justice protests in 2020, in responses that were seen to the coronavirus pandemic, and in the lead-up to the 2020 presidential elections. With the exponential growth of controversial

events and responses to them, and the fact that many controversies are resolved by courts, the judiciary is a likely target of future disinformation campaigns. Workgroup 1 recommends that the AOC invest in the resources to study the problem more thoroughly, using commercial off-the-shelf social listening tools, or commissioning an organization to build custom tools. Such study should measure social media networks and the spread of destabilizing narratives about the judiciary. Such ongoing study would require resources (labor and data and tools) beyond the scope of the Task Force.

DRAFT