

**Task Force on Countering Disinformation
State Courts Building, Phoenix
Meeting Minutes: November 19, 2019**

Members attending: Aaron Nash (Chair), Hon. Bradley Astrowsky, Fredric Bellamy, David Bodney, Pete Dunn (telephonic), Jessica Fotinos, Dawn Gilpin, Hon. David Fuller (telephonic), Joe Hengemuehler, Patience Huntwork, Hon. Todd Lang (telephonic), Krisanne LoGalbo (telephonic), William Long, Scott Ruston, Deborah Schaefer

Absent: Eduard Goodman (traveling), Sean Gibbs, Hon. Donald Watts

Presenters and Guests: Elizabeth Parker (telephonic), Lorraine Patterson, David Jose Romero, Martin Lynch

AOC staff: Alicia Moffatt

1. Call to order. The Chair called the meeting to order at 1:01 p.m.

The Chair welcomed and thanked the members for their participation, reviewed the purpose and vision of the Task Force's charge, and previewed what the Task Force should expect to cover during the day's meeting.

2. Approval of minutes. The Chair called for corrections to the October 24, 2019 meeting minutes. There were none.

Motion: A member moved to approve the minutes. The motion was seconded and passed with two members abstaining. CDTF: 02

3. Presentation: Countering Disinformation. The Chair provided the members with background on the development of what led to the creation of the Task Force. Administrative Office of the Courts (AOC) Director Dave Byers was invited to a national presentation by the National Center for State Courts (NCSC). Attendees received information from national experts about the trend of disinformation campaigns against U. S. institutions.

Originating from the arenas of elections and corporate competition, disinformation campaigns are ripe for targeting individual judges and the justice system. Agents both foreign and domestic have demonstrated an interest in creating distrust and division in the U.S. government and its institutions. After receiving this information from the NCSC, Director Byers returned to Arizona and presented a summary of the findings to the State Bar of Arizona's Board of Governors. The Chair reviewed that presentation with the Task Force. After the NCSC presentation and consultation with the Chief Justice, the Countering Disinformation Task Force was established by Administrative Order in September 2019.

As part of the presentation to the Task Force, the Chair added URLs to two TED Talks related to misinformation and disinformation online and encouraged members to view and consider that information as additional background to inform their work.

A member asked if the NCSC is the best centralized resource on the topic of disinformation campaigns against the judiciary and if they have funding committed to this area. Funding levels are unknown, but it appears the NCSC is the best centralized resource on the topic currently, as the hosts of the initial seminar on the topic. Another member observed that the National Judicial College and the Conference of Court Public Information Officers are actively developing programs and information in this area. A member requested that if any related reports come from the NCSC, that they be shared with the Task Force.

4. Discussions.

Defining terms. Patience Huntwork presented the members with a working definition of “disinformation,” researched by law students and AOC staff to allow the Task Force to proceed with an initial survey of Arizona’s judiciary. Members discussed, including the following considerations:

- Discerning an individual’s intent is difficult – that may not be the best approach for identifying disinformation
- Whether or how to determine financial or political profit
- Whether and how to determine what influences public opinion
- Differentiating satire from deliberate actions taken with the intent to undermine the state
- If a deliberate intent to deceive can be determined
- Whether to identify and treat differently state actors and non-state actors
- How to capture actions by non-individuals, such as web-bots and artificial intelligence – identifying who deployed those methods in specific incidents

Members reached consensus that the working definition presented allows the Task Force to move forward. A workgroup and Task Force members can adjust the definition as the Report progresses. The working definition:

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. The members discussed and agreed that the Administrative Order establishing the Task Force calls for reviewing examples of disinformation and that a survey of the judicial branch meets that directive. Members discussed a single-question survey asking judicial branch representatives whether they have been the target of a disinformation campaign. Two and three-question surveys were suggested, with the additional question of the frequency of any disinformation campaigns and an open response option for respondents to provide further information.

After discussion, the members agreed a workgroup would decide the specifics of the initial survey, including whether to limit the survey to Arizona courts or to include federal courts

or the Conference of Chief Justices. Guest expert Parker noted that the 9th Circuit Court of Appeals has also recently been briefed on these issues by the Center for Strategic and International Studies and could be contacted. As the survey develops, the Chair and AOC staff will assist with obtaining contact information and distributing the survey.

A member asked whether survey questions and responses are public record, noting that workgroup efforts are nonpublic, with their reports back to the Task Force happening in public meetings. Another member suggested that the workgroups and Task Force will get more participation and better qualitative information if participation can be anonymous, with participants able to opt-in for providing more detailed information, including self-identification.

The Chair stated that prior Task Force and Committee reports have generalized or provided aggregate information and not provided the level of detail that includes individual participant names. The Chair noted that this Task Force has a unique position in holding public meetings to discuss countering campaigns that often take place from hidden sources. While Task Force work is transparent, that transparency subjects the Task Force to revealing specific strategies before its final report, thus allowing disinformation campaigns to adjust and adapt in real time. The Chair will consult with AOC Legal whether the draft notes leading to a final, public report are within the public records categories stated in Arizona Supreme Court Rule 123.

Workgroups: The Chair divided the Administrative Order's list of seven purposes and the survey into 4 groups and assigned members to a workgroup based on their areas of expertise. Each workgroup has a designated leader.

Workgroup 1, led by Judge Astrowsky, will develop the disinformation survey and maintain the working definition of "disinformation."

Workgroup 2, led by Jessica Fotinos, will review local and national responses and information sharing related to disinformation and ways to communicate accurate information and identifying public and private individuals and organizations that could share information to identify disinformation and respond with accurate information.

Workgroup 3, led by Judge Fuller, will consider the feasibility of having a centralized point of contact to identify disinformation and have it removed, while respecting individual opinions and First Amendment rights, and suggesting technology and resources to identify disinformation early enough to counter it with accurate information.

Workgroup 4, led by Krisanne LoGalbo, will consider the feasibility of state or local legislation requiring foreign agents to identify their content to the public, and propose approaches to public education and communications that accurately reflects the roles and processes of courts.

The Chair asked workgroups to meet as needed between each Task Force meeting, and to provide its work product to staff at least a week before each Task Force meeting. The Chair asked each workgroup to include him and Alicia in their efforts, so they can attend every workgroup meeting. This allows the Chair and staff to monitor the progress of the workgroups and to provide answers and assistance as needed.

Staff will provide each member with a list of their workgroup assignments and contacts, a set of guidelines for the workgroups, and the link the Task Force's webpage online (<http://www.azcourts.gov/cscommittees/Task-Force-on-Countering-Disinformation>). Each

workgroup should prepare an update for discussion at upcoming Task Force meetings and decide which member will present the update. Task Force members can attend meetings of other workgroups.

Invited guests/presenters. The Chair encouraged members to reach out to their contacts to arrange presentations to the Task Force. Subject matter experts in disinformation, technology, strategy, communications, and beyond can help focus and inform the Task Force's work. The Chair and staff are available to coordinate appearances. A member asked if any of the members had contacts with the FBI for someone who could speak to where disinformation campaigns or more general messages of divisiveness are coming from now and how they are detected. Member Bill Long will check with his contacts.

5. Roadmap. The Chair encouraged members to schedule their first workgroup meetings after adjournment of the Task Force and reminded them to provide materials, if any, at least a week before the next Task Force meeting, as well as if the workgroup leader anticipates there being a voting item for the agenda.

The Chair presented the proposed list for future meeting dates. Most Task Force meetings are scheduled for the third Tuesday of each month from 10:00 a.m. until 2:00 p.m. Exceptions for time and date were discussed. The Chair noted that if future Task Force meetings of presentations and updates do not require the full allotted time, the scheduled dates and times will be adjusted accordingly. Staff will distribute the list of dates and times, followed by Outlook invitations. WebEx and conference call line numbers will be sent separately or as updates to each month's Outlook meeting invitation.

The next meeting is set for Friday, December 20, 2019, beginning at 10:00 a.m. in Room 230 at the State Courts Building.

6. Call to the public.

Lorraine Patterson, David Jose Romero, and Martin Lynch made comments to the members.

Comments included:

- Rights allowing criticism of public figures
- The challenge of anyone saying what disinformation is
- Steps to silence public opinion would create more distrust and could be illegal
- Support for an approach of openness and protecting free speech
- Arizona's courts of record and legislative tribunals
- Concerns with the Department of Child Safety
- How Facebook or Google policies block opinion sharing and challenging internet platforms and censorship
- Arizona proposed legislation that may be of interest to the workgroups
- Court press releases and libel and slander statutes as options the judiciary can use to counter disinformation

7. Adjournment. The meeting adjourned at 3:08 p.m.