

DRAFT RECOMMENDATION (Points of contact to remove and respond to disinformation)

I. Abbreviated Recommendations:

The Administrative Office of the Courts (AOC) should engage the National Center for State Courts (NCSC) as a centralized point of contact to assist with identification, response, or removal of disinformation specific to Arizona courts, in keeping with the auspices of the First Amendment. The Task Force on Countering Disinformation (Task Force) has secured a commitment from the NCSC to help the AOC achieve this goal.

The AOC should consider too the local chapter(s) of the American Board of Trial Advocates (ABOTA), a non-partisan national association of trial lawyers and judges, as a resource through which Arizona courts/their judiciary could respond “accurately, quickly, and fairly to unwarranted criticism of judges and courts.” The Task Force has not yet approached this organization.

II. Recommendations:

Recommendation 2(c): *Consider a centralized point of contact to assist in identifying disinformation and having it removed while respecting individual opinions and First Amendment rights.*

Disinformation, e.g., verifiably incorrect or inaccurate information presented and disseminated to intentionally deceive the public, erodes trust in the courts, puts our democracy at risk, and frequently supports extreme, radical viewpoints and ideas. Inaccurate or biased information, articles, or commentary, often circulated and forwarded online, generate conflict and distrust in the justice system both within our community and the larger society.

Arizona Supreme Court Administrative Order 2019-114 suggested the Countering Disinformation Task Force consider a “centralized point of contact” that could “assist in identifying disinformation.” This body could act as an ombudsman, supporting Arizona courts in responding to or removing inaccurate information.

The Task Force has determined that timely intervention, the removal of erroneous communications, and the distribution instead of credible information by an influential, accountable, and trusted court partner would promote transparency, help courts preserve their integrity, and validate the accuracy of processes and statements. For this, the Task Force looked to the National Center for State Courts, a nonpartisan, non-profit research and consulting organization known for its collaborative work with the Conference of Chief Justices and the Conference of State Court Administrators, among others.

A Task Force workgroup first spoke with Jesse Rutledge, NCSC’s Vice President for External Affairs, in January of 2020, to determine the NCSC’s interest in pursuing such an undertaking. In conjunction with Mr. Rutledge’s positive feedback, the workgroup invited him to speak to the entire Task Force regarding the NCSC’s proposed methods for responding to the threat to courts and democracy that an unchecked proliferation of disinformation invites.

At that (March 2020) meeting, Mr. Rutledge noted the NCSC had previously begun researching circumstances under which they could help the nation’s courts respond to propaganda, develop a collective voice, and establish lines of communication between courts, stakeholders, public authorities, and media, both traditional and social. The Task Force voiced its opinion that Arizona courts should work together with the NCSC to forge and offer consistent policies and processes to address disinformation in the (Arizona) courts and legal system.

Mr. Rutledge stated that the NCSC would act as an ombudsman for the Task Force. He noted they would provide direct assistance to courts by creating a program designed to respond to disinformation, not only on behalf of Arizona but courts nationwide.

The Task Force recommends the AOC extend its partnership with the National Center for State Courts and establish a workgroup specifically tasked to work with them in this valuable endeavor.

The workgroup has further identified the American Board of Trial Advocates (ABOTA), as a potential resource.

Information available online notes that ABOTA “defends judges who cannot publicly respond to criticism due to ethical prohibitions.” Further, they provide “information to enable the public to understand legal problems facing our justice system when judges cannot defend themselves,” and work “to maintain and support public confidence in the judiciary by providing timely assistance to members of the bench in responding to potentially damaging publicity.”

Within their materials available online, one resource is “[Protocol for Responding to Unfair Criticism of Judges](#).” This protocol specifically addresses ABOTA’s mission to “establish guidelines for each chapter of ABOTA” to “formulate and provide responses to misinformation.” ABOTA has two local chapters within the state of Arizona, one in Tucson, the other in Phoenix.

The Task Force recommends the American Board of Trial Advocates be contacted to determine their interest in partnering with the AOC in countering disinformation in Arizona courts. If interest is verified, the Task Force recommends the workgroup convened to work with the NCSC be co-utilized for this endeavor.