



NOT FOR REPRINT

COMMENTARY



---

## Polarization, Misinformation Undermining Confidence in the Courts



Addressing lack of confidence in the legal system and courts requires a coordinated effort and plan of action.



Promoting positive portrayals of judges, courts and lawyer is critical.



January 31, 2023 at 09:40 AM



By Julio Mendez | January 31, 2023 at 09:40 AM

Declining public confidence in the courts is a problem that cannot be ignored. A coordinated response and action plan is necessary.

The 2022 State of the State Courts public opinion survey conducted by National Center for State Courts (NCSC), as well as other well-regarded surveys completed by University of Pennsylvania Annenberg Public Policy Center, Marquette Law School and the Siena-New York Times poll have all found an alarming decline in public confidence in the courts.

The U.S. Supreme Court's eroding institutional credibility is astonishing. Just five years ago, close to 8 out of 10 Americans had confidence in the U.S. Supreme Court. The 2022 University of Pennsylvania Annenberg survey found that only 39% of U.S. adults approve of how the Supreme Court is handling its job.

A growing number of Americans view Supreme Court decisions as driven by political views.

The problem for the greater judiciary is that Americans do not distinguish between the federal and state courts. The negative perceptions permeate state court systems. State courts have also suffered a significant decline in public confidence.

One key metric tested by the NCSC survey is whether courts provide equal justice to all. The results are troubling. Less than half of Americans believed that courts provide equal justice under the law. The gap is greater among minorities.

A vibrant democracy requires an independent, efficient and trusted judicial system that provides a neutral forum for the just resolution of disputes. Courts play a vital constitutional role providing checks and balances to the other branches of government.

The persistent and growing polarization in America by political extremes is a problem. Often political leaders undermine the legitimacy of the courts to advance their political views. Attacks on credibility of judges and courts comes from both sides of the political spectrum.

The internet fuels misinformation. Social media is a cesspool of negativity. The internet provides a platform for anonymous disparagement of courts and judges.

The super-charged politics of the confirmation process of Supreme Court justices has contributed to the lack of confidence. The times when justices were approved with bi-partisan support by the Senate is long gone.

Public perception of the court system and of lawyers is mainly derived from media accounts or television, often presenting only negative depictions. Opinionated media outlets amplify attacks, reinforcing the negativity.

People view courts and the judicial process as confusing, unwelcoming and costly. Resolution of cases takes too long. Judges and courts come under criticism without an effective way to respond.

Court systems have traditionally ignored criticism. However, courts can no longer just sit on the sidelines and ignore misinformation. Courts and bar associations must vigorously promote all the positive programs and public service efforts.

One way to combat the misinformation is to effectively respond, provide context, explain in plain language and point out the facts.

The Conference of Chief Judges and the Conference of State Court Administrators recently adopted a resolution in support of efforts to counter disinformation. This resolution is both an acknowledgement of the problem and a call to action.

Having a public information officer is essential. New Jersey should consider adding public information officers at the vicinage level.

Even more important is to coordinate responses from bar associations, lawyers, retired judges, law schools, and law professors. All should speak up and be available to respond to misinformation, explain the law and process, and set the record straight.

The recent Governor Murphy “right wing” comment about a federal judge is the type of out-of-bounds criticism made to advance a political view. The swift response coming to the aid of the judge by many is to be applauded. The never-ending references to liberal, left-wing judges by conservatives are equally unacceptable.

The New Jersey Judiciary is a model of how courts can enhance public confidence. The New Jersey judiciary operates with independence, transparency, integrity and accountability to the public.

Importantly, New Jersey’s judiciary uses the platform of the courts to do more than its traditional case disposition role; performing community outreach, making structural changes to improve justice, increasing access to the courts, and establishing initiatives that improve the lives of people.

New Jersey’s criminal justice reform framework is best in the nation. It has a remarkable domestic violence system, recovery court program, language access plan, monumental reform of the municipal courts, a recent mental health initiative, and many more.

All these initiatives add value and increase credibility to the New Jersey Courts. The NCSC survey revealed that the public welcomes and support this type of efforts

Addressing lack of confidence in the legal system and courts requires a coordinated effort and plan of action. Promoting positive portrayals of judges, courts and lawyer is critical. Working closely with the bar association and stakeholders is crucial. Combating and responding to misinformation is essential.

**Julio Mendez**, *retired Assignment Judge for the Atlantic-Cape May Vicinage, is a senior contributing analyst for the William J. Hughes Center for Public Policy at Stockton University.*

NOT FOR REPRINT

---

Copyright © 2023 ALM Global, LLC. All Rights Reserved.