

FROM THE CHIEF

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PUBLIC CONFIDENCE IN THE JUDICIARY

Public confidence in the integrity of our courts is an essential pillar of the rule of law. As we learned in West Virginia a few years ago, public trust in our judicial branch is not absolute and may be threatened if not guarded carefully. Since then, my colleagues on the Court and I have worked hard to reestablish and maintain that precious trust.

There is good reason to continue our close attention to this important topic. A September 2022 Gallup poll indicated that Americans' trust in the judicial branch of the federal government dropped 20% from two years ago to 47%, the lowest in the 50 years Gallup has been conducting its annual governance survey.¹

Similarly, a 2022 survey by the National Center for State Courts (NCSC)² found that 60% of respondents either have a great deal of confidence or some confidence

in state courts. That doesn't sound so bad, especially since it is higher than confidence in the Supreme Court of the United States (53%), federal courts in general (57%), governors (54%) and state legislatures (55%). But public confidence in all these institutions has been steadily falling since 2012, the first year NCSC conducted the survey; confidence in state courts was 67% in 2012 and 64% in 2021.

So, what can we do about it? We begin by acknowledging this information and respecting the opinion of members of the public captured in surveys like these. Although judges sometimes must stay isolated from public interaction to preserve our impartiality, we must stay engaged and transparent so that the folks we serve know that the courts are doing justice. I believe there is plenty for the judiciary to do to address public

confidence while still maintaining that fine balance.

For example, the West Virginia judicial branch is embarking upon a strategic planning process this year. This project will include a significant effort to seek input and guidance from lawyers, litigants and others who are impacted by our state courts. This information will enable us to develop strategies to serve West Virginians even more effectively and efficiently.

Strategic planning may be new to the West Virginia judiciary, but it's not new to state and federal courts across the country. One of the main goals of the federal judiciary's 2020 strategic plan is "Preserving Public Trust, Confidence and Understanding." The activities outlined in the plan to accomplish that goal include holding judges and court employees to high standards, being transparent

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about misconduct and punishment for that misconduct, improving the sharing and delivery of information about the judiciary and participation in civics education.³

The Supreme Court also is committed to improving confidence in the judicial system by making our courts more accessible. The NCSC survey asked about public confidence in remote court hearings, finding that the comfort level has grown every year. Our circuit judges, family court judges and magistrates across the state continue to find innovative and effective uses for remote hearing technology.

The five satellite courtrooms that the Intermediate Court of Appeals of West Virginia (ICA) opened last year have been well-received by lawyers and self-represented litigants. The ICA judges also report that the technology is operating smoothly. These courtrooms are one way to improve access to the ICA and make people feel they are getting a fair hearing. If this remote courtroom “test run” continues to be successful, we might expand the concept.

Last November, I was honored to participate in a panel discussion on “Public Confidence and the Courts: Pillars of the Rule of Law” at the Appellate Justices Education Institute Summit in Scottsdale, Arizona. I talked about the impeachment proceedings that

consumed my first two years on the Court and how we have worked to restore public confidence by focusing on transparency, accountability and civics education.

During that panel discussion, I also discussed our Court’s serious efforts to improve the working relationship with the other two branches of government — legislative and executive — while maintaining our solemn responsibilities as an independent branch. My co-panelist, Montana Supreme Court Justice Laurie McKinnon, described her state’s recent interbranch conflicts over email communications, among other things. In both of our states, media amplification of the conflicts underscored the fragility of the balance of power in our system of government.

As you may know, I co-host a podcast called “Lady Justice: Women of the Court” with my friends Arkansas Supreme Court Justice Rhonda Wood and now former Michigan Chief Justice Bridget McCormack. Earlier this year, we devoted an entire episode to this topic of public confidence in the courts, which you can download and listen to on your favorite podcast app.

During that episode, we talked about one question on the NCSC survey referenced above: whether state courts “provide equal justice to all.” Only 43% of respondents said that phrase describes state courts well



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or very well, while 49% said it describes state courts not well or not well at all. In prior years, the responses to that question had been more positive. So, year by year, fewer people believe state courts are carrying out our main mission — according to the NCSC survey.

I emphasize here a comment by Justice Wood, who said, “I do not know how you deal with it other than taking a page from Sandra Day O’Connor’s playbook, which is education, education, education. How do we explain what we do in state courts in a digital world? How do you make people aware of the work we do?”

The West Virginia judicial branch continues to focus on education. Many judicial officers participate in civics education either individually or as part of our Legal Advancement for West Virginia Students (LAWS) and Have Gavel Will Travel programs.⁴ And later this year, the Supreme Court of Appeals will unveil a new West Virginia Judicial Learning Center in the East Wing right across the hall from our courtroom. We hope the Learning Center will be a popular destination for students and others who visit the Capitol, whether on formal tours or as interested visitors.

But judicial officers can’t do this alone. We must rely on the legal community to help educate the public

and improve the perception of the court system. In our panel discussion in November, Justice McKinnon made an important point that lawyers are “the mouthpiece of the courts.” I invite West Virginia lawyers to help us educate the public about what we all do and the important role the judicial system has in our democracy. And I am grateful to West Virginia lawyers who are already active in this effort, including our LAWS program volunteers and lawyers who are community leaders and volunteers in schools. **WV**

Endnotes

1. Gallup “Supreme Court Trust, Job Approval at Historic Lows,” September 29, 2022, by Jeffrey M. Jones. See <https://news.gallup.com/poll/402044/supreme-court-trust-job-approval-historical-lows.aspx>.
2. The National Center for State Courts polled 1,000 registered voters nationwide in “The State of the State Courts 2022 Poll.” See https://www.ncsc.org/_data/assets/pdf_file/0019/85204/SSC_2022_Presentation.pdf.
3. “Strategic Plan for the Federal Judiciary, Issue 2: Preserving Public Trust, Confidence and Understanding.” See <https://www.uscourts.gov/statistics-reports/issue-2-preserving-public-trust-confidence-and-understanding>.
4. For more information on these programs, see the Student Resources section on the West Virginia Judiciary website: <http://www.courtswv.gov/public-resources/student-resources/index.html>.