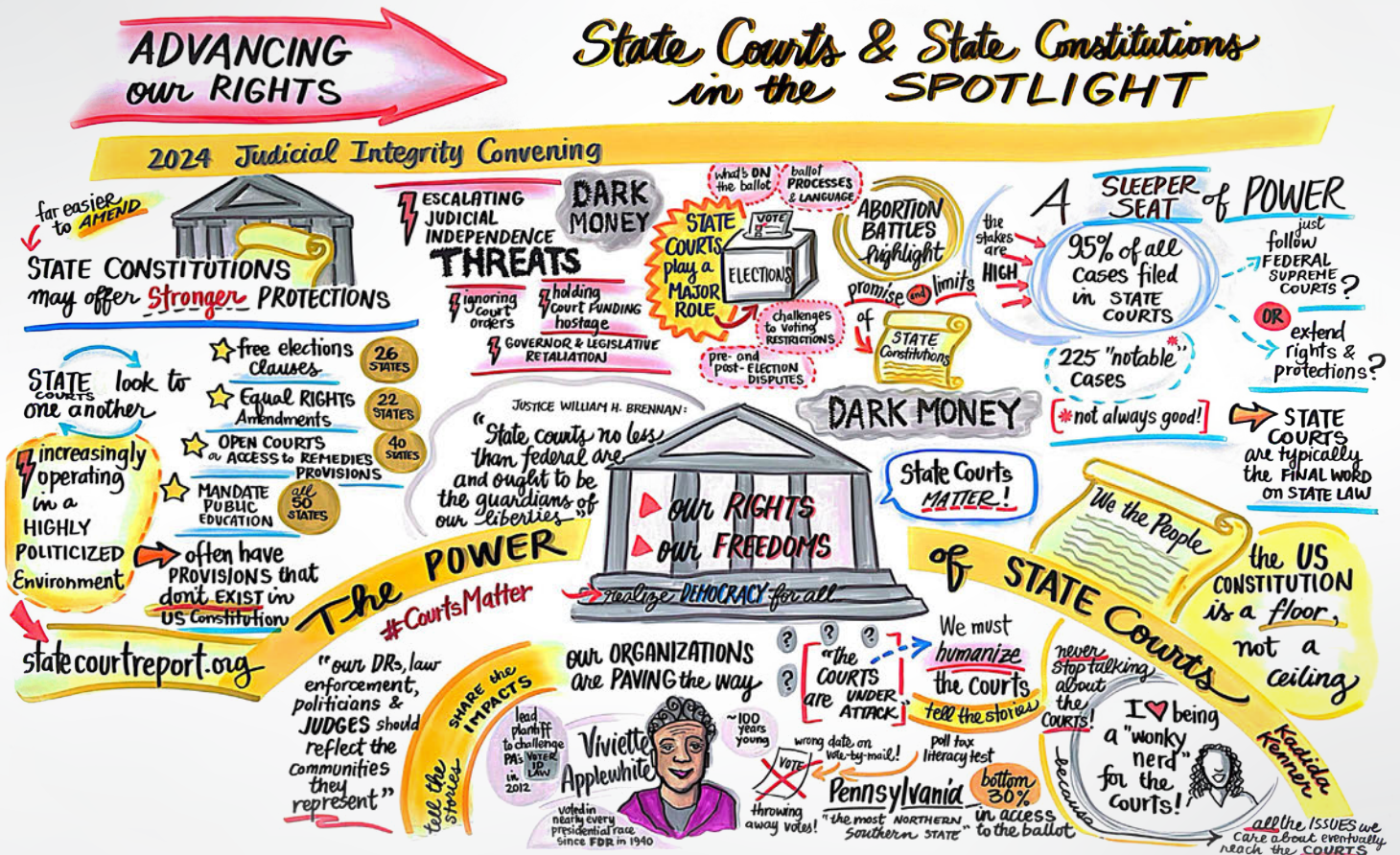


Protecting Judicial Integrity:

Developing Effective Messaging for State Courts



About Us



Proteus Fund partners with foundations, individual donors, activists, and other allies to work strategically towards racial, gender, queer, and disability justice and an inclusive, fully-representative democracy. We curate an ecosystem of mutually reinforcing, aligned donor collaboratives and fiscally sponsored projects that deploy a creative array of strategies and tactics to further this vision.



Piper Fund, an initiative of the Proteus Fund, connects and resources grassroots organizations dedicated to protecting our democracy and envisioning reforms to make it more inclusive and representative. We break down silos to support community-led coalitions and help build dynamic movements that produce powerful change.



Goodwin Simon Strategic Research (GSSR) is a national public opinion research firm with special expertise in conducting research on emotionally and socially complex issues. GSSR's cutting-edge approach is built on decades of experience in polling, social and political marketing, and policy analysis and communications, and is rooted in the latest research on neuroscience, emotion, psychology, cognitive linguistics, and narrative theory. This unique methodology is used to unpack underlying attitudes and emotional reactions that impact behavior and decision-making. We use this *heartwired* approach to develop effective message frameworks that enable deep attitudinal change and equip advocates to accelerate positive social and policy change. Learn more about GSSR's research approach at goodwinsimon.com and heartwiredforchange.com. John Whaley, Naser Javaid, Yule Kim, and Justin Adams of GSSR contributed their thought leadership to the development of this messaging guide.

The cover graphic and graphic on page 12 were created by Katherine Torrini. Katherine Torrini is a Visual Facilitator, Graphic Recorder and founder of creativecatalyst.com -- a boutique consulting firm that specializes in visual communication and facilitation through hand drawn words and images. She and her team have been drawing out ideas and empowering creativity since 2007.



Is This Guide For You?

This messaging guide was developed to assist advocates working to promote and protect the integrity of state courts and their crucial role in upholding the protections afforded in each state's constitution. We also believe this guide will be useful for many others, including strategists, communicators, and organizers who are trying to engage in more effective conversations about the court system and fight back against power grabs by other branches of government.

With this messaging guide, we hope to give everyone working passionately on this issue the tools to effectively communicate with potential supporters in ways that will engage them and help to expand our collective networks of activism. While this guide offers research-based recommendations on communications and messaging, the intent is not to tell people exactly what to say. The ultimate goal is to help advocates and allies build a deeper understanding of what will most effectively engage and move potential supporters. This way we can continue to develop and evolve messaging that is authentic to ourselves and our own goals.

It is important to remember that as human beings, we are all persuaded by emotions, values, moral arguments, and personal motivations. As we identify and engage with people that we know will be critical to reach with our messages, it can be easy to lose sight of a simple fact: they are human beings too. That is why it is important for us to use the value-based messaging we recommend in this guide as often as possible—when communicating with both potential supporters and with people outside of that group. This includes with the media, at events, during legislative testimony, and in many other places. Doing so will strengthen our ability to engage with a broad range of audiences—and increase the likelihood that they and others will adopt and use language we know is effective in building support.



What You Can Expect in This Guide:

- *A Guide at a Glance* section to get quick information on key findings and messaging recommendations.
- Key findings that describe the mindset of our audience and how they think about state courts and state constitutions.
- Research-based messaging recommendations for increasing support for policies and systems that help promote judicial integrity.
- State-specific findings and nuances related to in-depth research conducted among voters in Alaska, Montana, and Wisconsin.
- Suggestions for creating effective messages that are authentic and connect with our audience on an emotional level.

Who is *Our Audience*? See page 4 for more on who we mean when we say *our audience* in this guide.

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Welcome

Thanks to recent decisions like *Dobbs v. Jackson*, which shifts the responsibility of constitutional protections from the federal to the state level, we find state courts—and state constitutions—in the spotlight in ways they haven’t been before. This increased attention creates an urgency for us to reflect on and to better understand how we can effectively communicate about these institutions—and do so in ways that emphasize their role in ensuring fairness, accountability, and the protection of rights.

As our democracy faces evolving challenges like these, it has become increasingly clear that the role of state courts—and the integrity with which they operate—has both taken on heightened importance and come into sharper public focus. While we have long advocated for judicial independence, broadening our focus and messaging to encompass the *integrity* aspect of the judiciary is essential. This is a recognition that independence alone is not enough—that integrity is equally important for the judiciary to function fairly and impartially. It is a shift that reflects a growing awareness that state courts need to not only operate free from undue influence—they also must embody the highest standards of integrity.

What encourages me the most from the research you’ll find in this guide is this growing recognition of the importance of judicial integrity among diverse segments of our audience. This momentum demonstrates the power of shared values—values like fairness, accountability, and the protection of rights—to bring people together. Of course, each state’s judicial system and constitution is unique. Different states do face different challenges, and additional research is needed to develop messaging strategies that are specific to those realities.

This research confirms the critical need for ongoing education about state courts and constitutions. While our audience is hearing more about these institutions, important information and context is often lacking for them. Our messaging needs to help fill their knowledge gaps and connect the dots for them to show how their lives are directly impacted. There is a clear need for sustained, year-long educational efforts—not just short-term responses. Building a deeper understanding of the

judicial system requires ongoing dialogue and a long-term commitment to explaining the role of state courts in our democracy. Messaging needs to resonate with diverse segments of our audience, and it’s essential to involve a variety of messengers, particularly those from less elite backgrounds, to reach broader communities. The use of such diverse voices is crucial—no single voice can advance this movement alone.

I want to extend my deep gratitude to the many contributors and advisory group who have shaped and strengthened our research approach and the messaging we tested. Their insights and expertise were invaluable in helping to create a resource that we hope will support advocates across the country in promoting judicial integrity.

I remain hopeful because of the growing community of advocates and supporters that are dedicated to the fundamental principles that make our democracy work. Together, I believe we can ensure that state courts not only maintain their independence from other branches of government but also continue to operate with integrity—serving as a cornerstone of our democracy.



Kathy Bonnifield
Senior Program Officer, Piper Fund

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- | | |
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Guide at a Glance

Key Findings

- ① **Our audience believes in protecting the integrity of state courts and constitutions—and recognizes that politicians are trying to undermine them.** Most think it is important that state courts, including the state Supreme Court, are able to operate independently from the governor and state legislature.

- ① **Our audience has limited familiarity with state courts and state constitutions—and a desire to learn more.** Many say they have not heard or seen anything recently about their state supreme court, and most say they are unfamiliar with their own state constitution. At the same time, the vast majority express a desire to learn more about both.

- ① **Some among our audience feel that state courts (and courts in general) do not always produce fair and just outcomes. They perceive state courts as oftentimes making decisions that negatively impact people, their families, and their communities—especially communities of color.** Many research participants—across race—also express concerns that efforts to increase judicial independence may reduce accountability and further exacerbate an already unfair situation.

- ① **Our audience often perceives state court judges as too liberal or too conservative.** Nearly half of voters (45%) responding in the national dial test survey say that they feel state court judges are too liberal or too conservative, with only a third (34%) saying they are “just about right.”

- ① **Our audience’s perceptions of state court judges may be contributing to concerns over possible threats and violence.** Two-thirds of voters (67%) nationwide say they are either extremely, very, or somewhat concerned that a judge in their state will be harassed or threatened with violence because of a decision they make. In addition, the majority say they think threats and violence are *likely* to happen.

- ① **Learning more about state constitutions evokes pride.** Our audience is often pleasantly surprised—and expresses a sense of pride—when they learn that their state constitution has stronger rights and protections than the U.S. Constitution.

- ① **While voters appreciate the positive vision established in state constitutions, they express skepticism about what is achievable in reality.** While our audience appreciates the idealism expressed in their state constitutions, many say the reality on the ground in their own state falls short. While an aspirational vision about state constitutions and state courts (*see page 27 for more*) resonates strongly, many also question whether it can be achieved in practice.

- ① **Comparisons to other constitutions can prompt questions.** Learning about other states’ constitutions—and how they may have stronger or weaker protections than their own—can cause some confusion. In addition, learning that some state constitutions can be easily amended—and that some have had numerous amendments—creates unease. It raises questions around why this would happen and who would get a say in making the changes.

Messaging Recommendations



Feature a diverse set of messengers who can speak credibly about state courts—and the impact these courts have on their community.

For messaging to be most effective, it is important to elevate a range of messengers of different backgrounds, races and ethnicities, genders, and lived experiences. Include diverse messengers who can speak credibly about state courts and the courts’ impact on their own communities.

Effective Messenger Characteristics

Has local roots or connections	Is unexpected as a messenger
Has credible expertise or experience	Has a motivation for speaking up
Is an everyday person	



Make it local. It is important that our messaging helps our audience understand that judicial integrity is a state or local issue, relevant in their own communities and in others just like theirs. When we show messengers in the context of their communities and daily lives—and our messaging encourages our audience to think locally about the role of fair and impartial courts in their state, community, and personal lives—it removes the conversation from a partisan, polarized, and national political context.



Maintain ongoing messaging, rather than one-off efforts. It is important to maintain a steady, year-round dialogue with our audience. This ensures that our audience becomes familiar with the principles of how courts should function, including the need for judicial integrity and the separation of powers. It can also act as a *prebttal* to opposition messaging.



Lead with shared values, rather than policy or facts—and elevate shared values throughout.

We can find common ground with our audience by emphasizing shared values, including impartiality, fairness, and integrity. Weaving in core American values such as democracy, protecting rights, and freedom is also very effective (*see page 15 for more on this*). Elevating these shared values helps create an emotional connection with our audience, making them more open to hearing and accepting the information that follows.

Effective Shared Values

Fairness and Impartiality	Community and Representation
Equal Access to Justice	Separation of Powers
Healthy Skepticism	Insulating Judges from Political Influence
Understanding Local Culture	Responsible Citizens Have an Obligation to Do Their Research



Acknowledge the moment we are in, including our audience’s concerns about state courts. Issues we know exist—like a distrust in government—loom large for many among our audience, and they have deep concerns about them. Using acknowledgment structures is a way to help affirm our audience’s existing concerns and help them to manage those concerns, while also expressing support for judicial integrity.



Tie the role of state courts to the most important issues of our time, including threats to our democracy and extreme political gerrymandering. Many people do not fully understand the role that state courts can play in helping to stop efforts by extremist politicians to take away people’s rights and freedoms—or the state courts’ role in influencing public health policies to deal with global pandemics and environmental policies to address the ravaging effects of climate change.



Name and normalize a lack of familiarity with state courts and laws. Acknowledging the complexity of the judicial system—or sharing the experience of being unfamiliar with the state court system and laws and learning more about them—helps to normalize our audience’s own lack of familiarity and builds identification with the messenger. This helps create an openness among our audience to learn more.



Highlight the role of state constitutions—and state courts’ role in upholding the values enshrined within them. Emphasizing the important role of state constitutions as distinct yet powerful legal frameworks that often provide greater protections than the U.S. Constitution resonates strongly with our audience—and often evokes a sense of pride.



Fill our audience’s key knowledge gaps on state courts and laws—and connect the dots to show how state courts work well. For messaging to be effective, it is critical to help fill our audience’s knowledge gaps and work to effectively connect the dots between the risk we are highlighting—what is at stake—and the solutions or aspirational vision we are supporting.

Effective Ways to Fill Knowledge Gaps

Use plain language and simple facts.	Provide key historical information.
Emphasize added protections.	Show the impact of courts.



Show—don’t tell—the threats and harms facing state courts and judicial integrity. When we show—rather than tell—about the threats and harms state courts face, we can activate a sense of urgency among our audience to protect or correct what they perceive to be an important institution before it is too late. Showing, not telling, means describing for people the concrete threats and harms courts face and describing these harms in a vivid and evocative manner.



Share a positive vision of the future that is rooted in shared values. A powerful way to create an emotional connection with our audience is by providing an overarching and aspirational vision. This vision is most effective when it is rooted in shared values and situates state courts within a larger narrative about how the United States should continually strive to live up to its core values and ideals.

Messaging Nuances: Things to Consider...and to Avoid.



Be cautious when discussing problems with state judicial systems. Ultimately, it is important to leave our audience with the impression that state courts, even with their problems, are generally fair and impartial.



Avoid comparing multiple states with each other. Limit the contrast to our audience’s own state versus one other state. States with newer constitutions can be an exception—for example, when talking about learning what works and what doesn’t in other states.



Avoid using absolutes in messaging. Our audience does not respond well to absolutes in messaging (e.g., most judges have high integrity)—especially without evidence to support it.



Avoid overly rosy assessments of state courts and state judges. In general, our audience feels all institutions in state government can use improvement and that no institution is perfect.



Introduction

Our Audience and Goals



The research presented in this guide was conducted broadly among registered voters nationally and in a handful of states—it was not focused on any specific persuasion audience target. Therefore, when we use the term *our audience* in this guide, we are referring to voters in the United States who, at their core, believe in the fundamental elements of the U.S. system of government (e.g., the rule of law, separation of powers, and checks and balances) and who, at the same time, are largely unaware of threats to the judiciary or of issues more broadly related to judicial integrity.

Unlike many other issues that are highly polarized, our audience does not perceive efforts to defend judicial integrity—at least at the state level—as being driven by one party or another. For them, the messaging landscape on judicial integrity remains generally undefined. This means that a large segment of voters in the United States—across ideology, political party, race, ethnicity, and location—are very much available to us and our messaging.

At the same time, this also means that our audience is susceptible to opposition efforts to subvert judicial integrity—especially as the opposition frequently co-opts fundamental language such as *checks and balances* and *holding public officials accountable* for their own political ends. The non-partisan nature of

Goals of This Research:

- To explore the mindset of our audience around state courts and state constitutions;
- To better understand the opportunities and challenges in building support among our audience for independent state courts; and
- To develop effective, evidence-based messaging to help increase support for policies and systems that help promote judicial integrity.

judicial integrity therefore provides a significant opportunity for us to help define this issue for our audience—and to force the opposition to debate on our terms. If we fail to do so, however, the opposition will no doubt step in and shape the public's understanding of concepts like judicial integrity for us, pushing us into a defensive messaging position. Therefore, it is critical for us to get ahead of the curve—to go on offense and focus on consistent communications and delivering *prebuttals*, rather than waiting until the opposition forces us to go on defense and rebut their messaging.

The good news: this research finds that our audience is very interested in learning more about their state courts and state constitution. When our audience receives effective messaging, delivered by trusted messengers—especially when that messaging connects with them emotionally and successfully fills knowledge gaps and corrects misinformation—we can increase our audience’s understanding of their state constitution and grow support for protecting the integrity of state courts. Delivered proactively, these *prebuttals* can also help to defang the power of our opponents’ messaging.



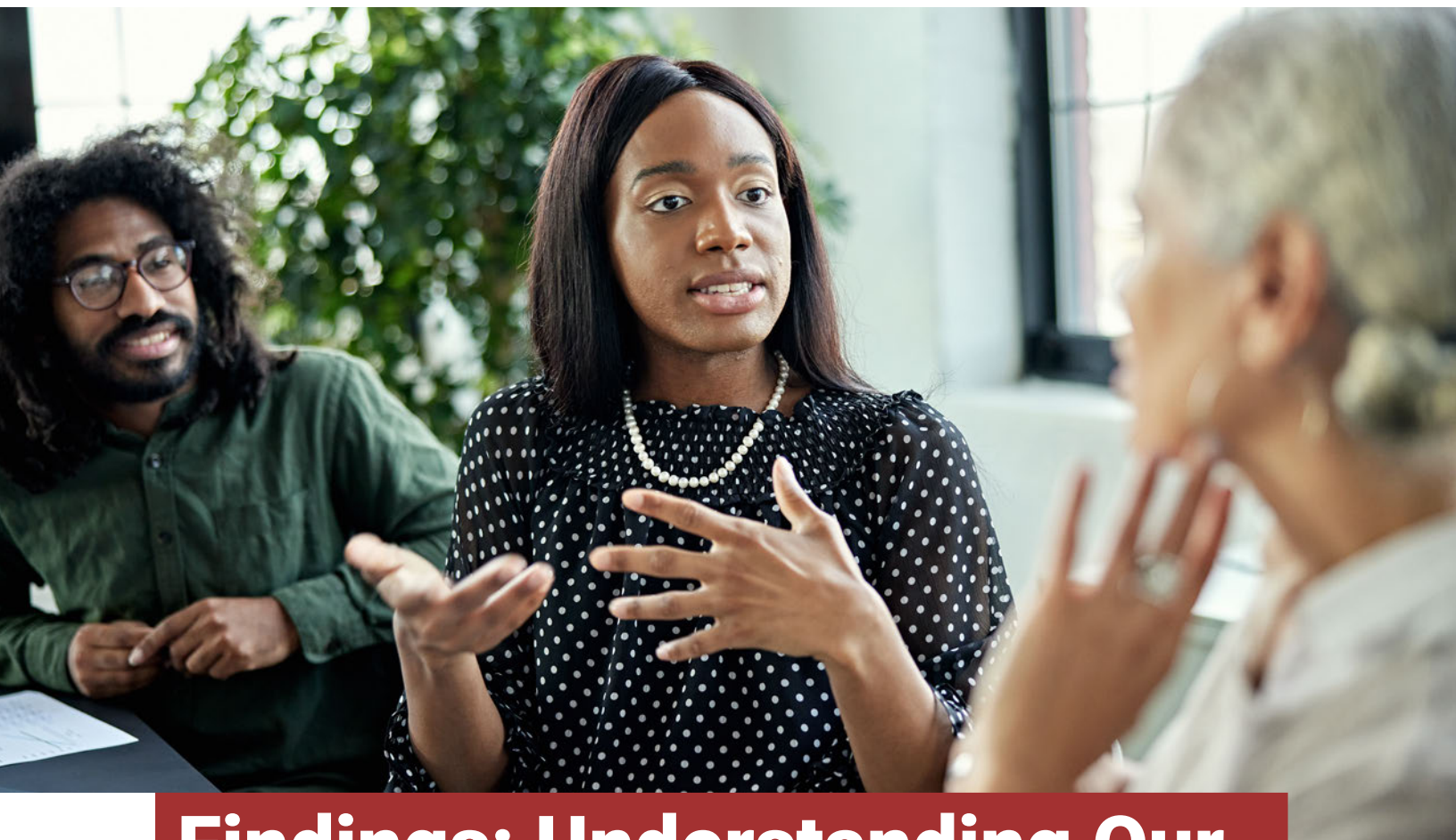
Research Methodology in Brief:

The findings and evidence-based recommendations presented in this messaging guide are developed from in-depth qualitative and quantitative research conducted from March to July 2024. This research methodology was intentionally designed to explore our audience’s mindset around state courts and state constitutions while also developing and testing messaging strategies in an iterative way to help increase support for policies and systems that help promote judicial integrity. The research components included:

- Four-day online asynchronous focus group among 24 Alaska registered voters (March 2024).
- Four-day online asynchronous focus group among 23 registered voters in Montana, North Carolina, Ohio, Pennsylvania, and Wisconsin (March 2024).
- Four synchronous focus groups (via Zoom) among 13 Montana and 15 Wisconsin registered voters (April 2024).
- Online dial test survey conducted among n=457 Alaska registered voters (June–July 2024).
- Online dial test survey conducted nationwide among n=1,866 registered voters, with oversamples for Black, Hispanic, API, Wisconsin, and Montana voters (July 2024).

A note about judicial reforms: Because judicial reforms are often state-specific and/or face different dynamics in different states, the team decided to use the project to develop broader messaging related to judicial integrity and conduct state-specific research around reforms at some point in the future.

For a more in-depth look at our research methodology, see the appendix on page 49.



Findings: Understanding Our Audience's Mindset

What is mindset research?



Mindset research provides a window into the life experiences, identity, beliefs, emotions, and values of the people we are trying to reach. It reveals the most powerful points of connection—those that begin with what is fundamentally true for our audience, rather than the worldview that we hold as advocates and allies who already understand and believe in our issues.

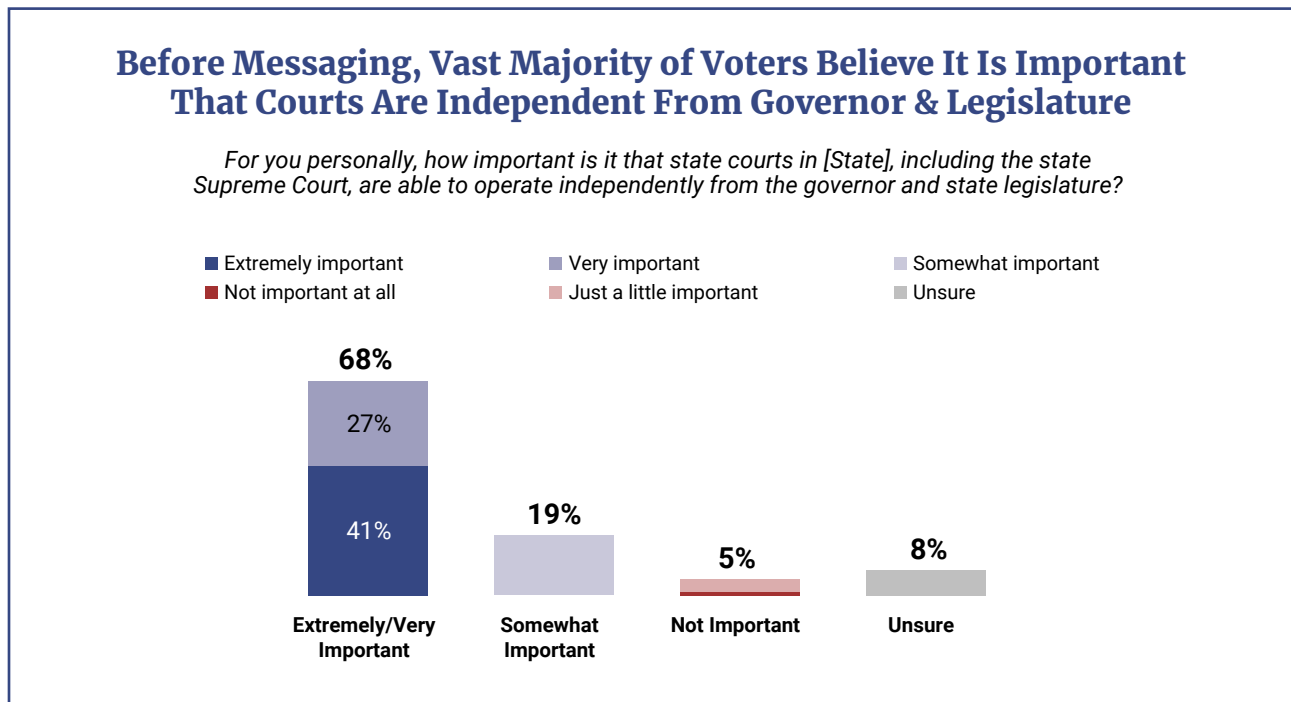
By better understanding our audience's mindset, we can effectively meet people where they are by making emotional connections that help change hearts and minds. It allows us to develop messages that fit into our audience's already deeply held values, rather than trying to change their core values. Simply put, it means that our audience can come to the change themselves, rather than advocates trying to impose change upon them.

The following research insights help to deepen the understanding we have of our audience's mindset as they think about, discuss, and learn more about state courts and state constitutions.

Key Findings



Our audience believes in protecting the integrity of state courts and constitutions—and recognizes that politicians are trying to undermine them. Our audience supports the idea that systems and processes should be in place to protect the integrity of state courts and constitutions. They also believe politicians are often willing to go to any extent to undermine systematic guardrails on their authority. This belief leads many among our audience to want to see state courts and constitutions remain independent from politicians. Before respondents in the online national survey saw any messaging related to judicial integrity and judicial independence that was developed through the research, nearly seven in ten voters say it is extremely or very important that state courts are independent from governors and state legislatures, with four in ten believing it is *extremely* important.



Our audience has limited familiarity with state courts and state constitutions—and a desire to learn more. When asked what they have heard or seen lately about their state supreme court, many research participants say they have not heard or seen anything recently. Some say they don't follow the news on the courts. When it comes to state constitutions, most among our audience say they are unfamiliar with their own state constitution. At the same time, many express a desire to learn more. In focus groups, some research participants even go so far as to say that *all* adults should know more about state constitutions and how changes to these constitutions are made. Throughout the research, our audience expresses a clear interest in being civically engaged and active, and, at the same time, they are unclear on ways to take action. This desire provides an opportunity our messaging can tap into.

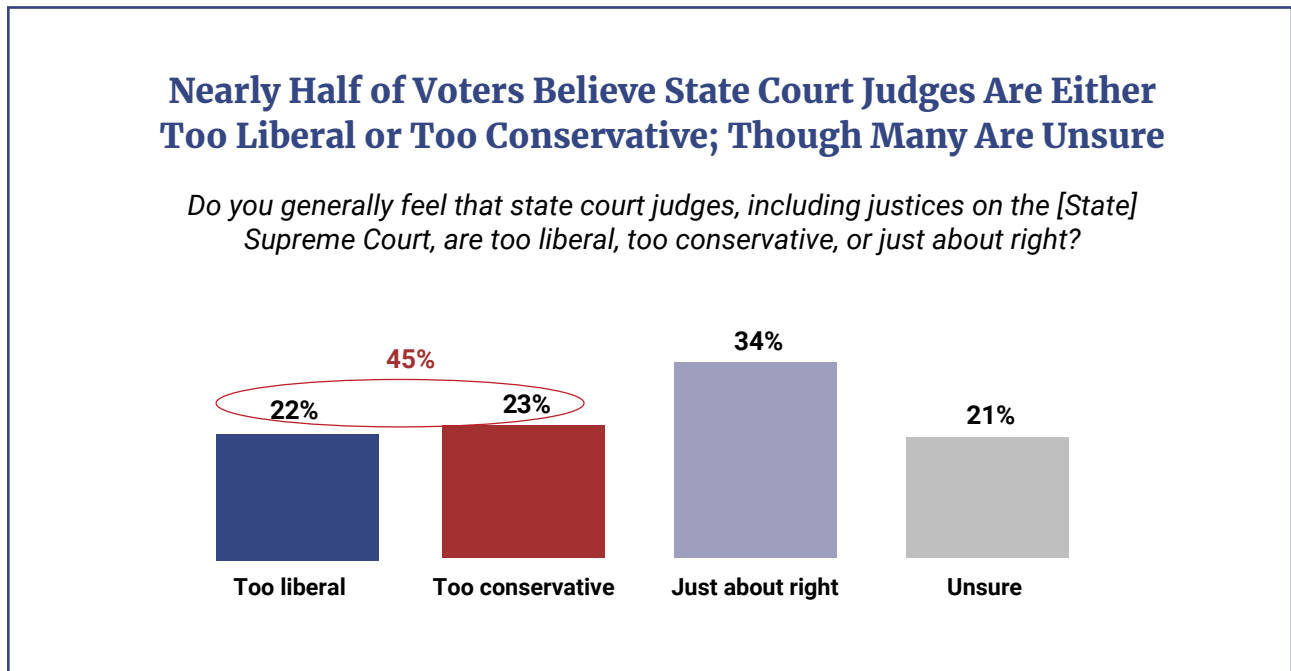
I recently saw the Governor was trying to pass a law which would change the state maps. I also recently saw news of the Wisconsin state governor shutting down a law that would ban males playing on the same teams as females. He very strongly swore to not let that pass.”

– White Woman, Conservative, Wisconsin

○ **Some among our audience feel that state courts (and courts in general) do not always produce fair and just outcomes. They perceive state courts as oftentimes making decisions that negatively impact people, their families, and their communities—especially communities of color.** In the research, this feeling is especially prevalent among participants who are Black and participants who are Hispanic. They point to the racial disparities in criminal sentencing as an example of how courts do not treat everybody equally. Importantly, many research participants—across race—also express concerns that efforts to increase judicial independence may reduce accountability and further exacerbate an already unfair situation.

Recent state supreme court decisions (e.g., Alabama and Arizona courts deeming IVF and abortion unconstitutional) may also create challenges in some places when trying to position the judiciary as an important protector of core rights and freedoms. While nearly three-quarters (72%) of voters express favorable views of their state constitutions, a bare majority (54%) say the same about their state courts (and about a third or 31% view them unfavorably). It will therefore be important for messaging in some states to help our audience connect the dots to see how shortcomings in the current judicial system (e.g., improper influence) have enabled decisions such as these to be made—decisions that are clearly out of step with the vast majority of voters.

○ **Our audience often perceives state court judges as too liberal or too conservative.** Nearly half of voters (45%) responding in the national dial test survey say that they feel state court judges are too liberal or too conservative, with only a third (34%) saying they are “just about right.” Almost one in five respondents say that they are unsure. Given that our audience has limited familiarity with state courts, it is unlikely they have enough information about the judges in their state court to come to an informed conclusion about their ideological leanings. Regardless, this is how our audience perceives their state courts judges.

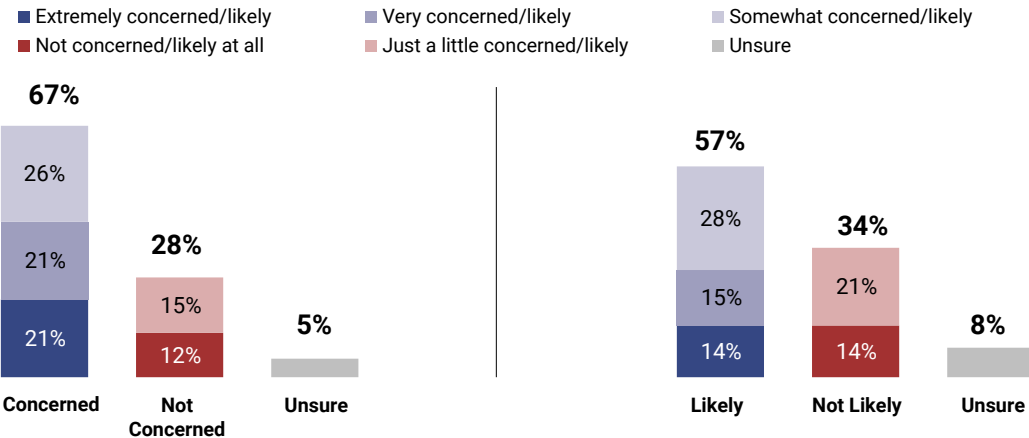


○ **Our audience’s perceptions of state court judges may be contributing to concerns over possible threats and violence.** The common perception of state court judges being *too liberal* or *too conservative* may also be having a knock-on effect. When asked how concerned they are that a state court judge in their state will be harassed or threatened with violence because of a decision they make in a case, two-thirds (67%) say that they are either extremely, very, or somewhat concerned, with a majority (57%) also saying it is likely to happen.

Two-Thirds Concerned About Judges Being Harassed or Threatened—and a Majority Think It’s Likely

How **concerned** are you personally that a state court judge in your state will be harassed or threatened with violence because of a decision they make in a case?

And how **likely** do you personally think it is that a state court judge in your state will be harassed or threatened with violence because of a decision they make in a case?



○ **Learning more about state constitutions evokes pride.** Our audience is often pleasantly surprised—and expresses a sense of pride—when they learn that their state constitution has stronger rights and protections than the U.S. Constitution. They appreciate that their state’s founders sought to improve on the U.S. Constitution and aspired to create something special and unique for their state.

○ **There is appreciation for the idealism in state constitutions, with skepticism around what is achievable in reality.** While our audience appreciates the idealism expressed in their state constitutions, many say the reality on the ground in their own state falls short. This includes constitutional rights guaranteeing education or a clean environment not being respected or enforced. When participants in the research are provided an aspirational vision about state constitutions and state courts (see page 27 for more), it does earn widespread approval. At the same time, many question whether something aspirational like this can be achieved in practice, given their belief that neither their state constitution nor their state court are living up to what has been promised. They cite fears that outside, undue influences will always affect how the government and the judiciary make their decisions.

○ **Comparisons to other constitutions can prompt questions.** At the same time, learning about other states’ constitutions—and how they may have stronger or weaker protections than their own—can cause some confusion. In addition, learning that some state constitutions can be easily amended—and that some have been amended numerous times (e.g., the Alabama constitution has been amended nearly 950 times)—creates unease. For our audience, it raises questions around why this would happen and who would get a say in making the changes. This means that while amending state constitutions can be perceived by our audience as a vehicle of positive change, it is important to make clear who gets a say in that process.



Word Associations



In focus groups, participants were provided a word or phrase and asked to describe whatever comes to mind for them. Here are some of the words and phrases tested, along with participant responses:



“An impartial judge”

- Fair, unbiased, just, honest, no prejudice, accurate interpretation of the law, no political agenda or motivations, no personal gain, neutral, not tainted by outside forces, knowledgeable, balanced, open minded, equitable, responsible.



“Judicial integrity”

- Ethics, honest, follows the law as it is written, committed, unbiased, character, morals, honor, values, principles, incorruptible, rules, impartial, not persuaded, not swayed by lobbyists, judge the facts.



“Separation of powers”

- Separation of the different branches of government, division of duties, checks and balances, divided power, removing influence from the process, how our government balances power, separate and independent powers, separate but work together, delegation of responsibility.



“The U.S. Constitution”

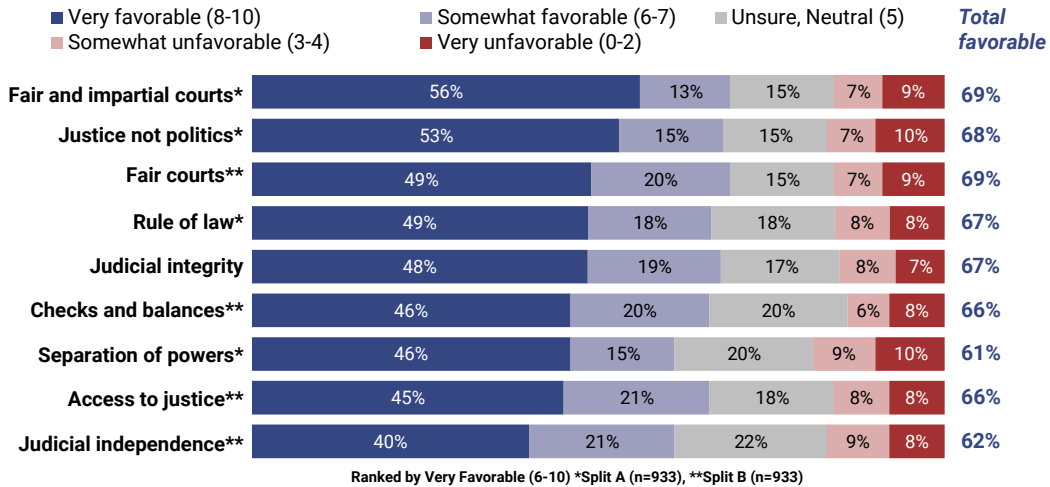
- Legacy, pride, honor, history, strength, foresight, Founding Fathers, the country’s founding document, the pursuit of happiness, rights (people’s rights, Bill of Rights, gun rights), outlines basic freedoms, rules to be followed, old, sacred, important, freedom, amendments, easier to amend to fit the current needs, outdated, all men are created equal.

Gaining insights on these associations early in the research was helpful for developing and testing specific language in subsequent phases of the research. In the national online survey, for example, we asked respondents to react to a set of phrases by indicating how warmly or coldly they feel about each. The following charts show how favorable or unfavorable our audience finds these phrases.

The results indicate that voters feel favorably toward every phrase tested, although certain phrases (e.g., “fair and impartial courts” and “justice not politics”) earn especially high ratings. For many among our audience, “judicial integrity” had power as an umbrella term—a term that encompassed many of the other concepts, including judges who are fair and unbiased and the judiciary being separate from politics. Including and prominently placing these phrases in messaging can help make messaging more effective with our audience.

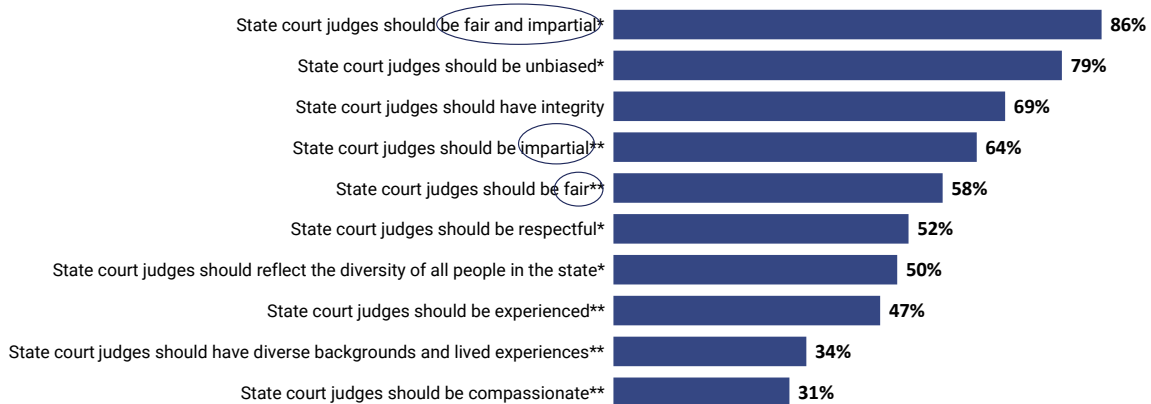
“Fair and Impartial Courts” and “Justice Not Politics” Most Favorable Terms Among Voters

Please indicate how warmly or coldly you feel about each of the following terms regarding the courts and judicial system in [State].



As an experiment, we tested the phrase “fair and impartial” with half of survey respondents and tested the words “fair” and “impartial” individually with the other half of respondents. The following chart shows that the combination of “fair and impartial” is most effective—it earns the highest proportion as a top three desired characteristic of state court judges. When separated the terms are still effective, with “impartial” alone performing better than “fair” alone.

When you think about state court judges in [State], what kinds of characteristics do you think they should have? Please click the following items and rank them based on how important you think each is for state court judges.



Showing percent indicating as top three choices
*Split Sample A (n=933), **Split Sample B (n=933)

Shifting the NARRATIVE



Effective COMMUNICATION Strategies

2024 Judicial Integrity Convening



Messaging Recommendations



Feature a diverse set of messengers who can speak credibly about state courts—and the impact these courts have on their community.

For messaging to be most effective, it is important to elevate a range of messengers of different backgrounds, races and ethnicities, genders, and lived experiences. Include diverse messengers who can speak credibly about state courts and the courts' impact on their own communities.

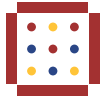
For our audience, diversity is multi-faceted. Having a variety of messengers provides more opportunities for our audience to connect with a specific messenger and build some identification with them. This then allows them to hear what the messenger has to say in a different, deeper way.

Video Assignments

 Angela Lang	 Kadida Kenner	 Kiersten Iwai
 Lucas Foust	 Melissa Price Kromm	

The following table lists various messenger characteristics that the research found to be effective with our audience, along with an explanation of why the characteristic is effective. Note: it is *not* necessary for each messenger to embody *all* of these characteristics. Rather, we are only suggesting that you deploy a mix of messengers who collectively exhibit all or most of them.

Messenger Characteristic	What Makes This Messenger Characteristic Effective
Has local roots or connections	<ul style="list-style-type: none"> ○ Our audience wants to hear from people who they believe understand their local culture and can speak credibly about the needs of their community. ○ Local messengers help to build audience identification and connection.
Has credible expertise or experience	<ul style="list-style-type: none"> ○ Many among our audience want to hear from people who have direct experience with state courts. This includes legal practitioners, such as judges or lawyers, but also advocates, legal scholars, and others who can credibly speak to how state courts impact everyday people and how judicial integrity is under threat in many states.
Is an everyday person	<ul style="list-style-type: none"> ○ Within the mix of diverse messengers, it is important to include and elevate messengers who our audience sees as everyday people—people just like them. This can include messengers who lack elite backgrounds or careers, are not involved in politics, and are not legal experts. These messengers are often more relatable and credible for our audience and are not perceived as having a political agenda.
Is unexpected as a messenger	<ul style="list-style-type: none"> ○ Unexpected messengers can be especially impactful and help to break through a crowded media landscape. For example, some members of our audience may connect more with messengers who are not legal experts—people who are more like them. These kinds of <i>familiar</i> messengers help to calm any anxieties or concerns our audience may feel as they begin to consider our messaging—and this creates opportunities to engage them in deeper reflection on our issue.
Has a motivation for speaking up	<ul style="list-style-type: none"> ○ Establishing the motivation for messengers to be speaking out, and the experiences they have that give them credibility on the topic, helps to resolve any potential confusion our audience may have about why a messenger is speaking about state courts (which for most people is an unfamiliar or esoteric topic).



Make it local.

Most among our audience have limited familiarity with state courts and state constitutions. When they do hear about issues related to judicial integrity, they may simply perceive them as part of a national political debate—issues that have little to no impact or relevance at the state or local level.

It is important that our messaging helps our audience understand that judicial integrity is a state or local issue that is relevant in their own communities and in others just like theirs. When we show messengers in the context of their communities and daily lives—and our messaging encourages our audience to think locally about the role of fair and impartial courts in their state, community, and personal lives—it removes the conversation from a partisan, polarized, and national political context.

One simple and effective way to do this is to localize terminology and phrasing. Referring broadly to *the judiciary*, *the courts*, or *judges* can feel impersonal and distant. Instead, using terms like *our state judges*, *our community courts*, or *the people who uphold fairness in our legal system* helps bring the conversation closer to home.

Additionally, it is important to focus our audience's attention on how judicial integrity is upheld in their own state courts, rather than solely focusing on high-profile national cases or concerns about courts at the federal level.



Make it consistent rather than one-off.

Consistency and repetition in messaging is key to fostering a deeper understanding of judicial integrity. Rather than limiting communication to election cycles or moments of crisis, it is important to maintain a steady, year-round dialogue with our audience. This ensures that our audience becomes familiar with the principles of how courts should function, including the need for judicial integrity and the separation of powers.

A consistent and sustained approach to messaging can act as a *prebttal* to opposition messaging and help to fill information gaps and build a foundation of knowledge and trust, making these issues more relevant and meaningful in everyday life, not just during pivotal moments.





Lead with shared values, rather than policy or facts—and elevate shared values throughout.

When it comes to growing support for defending and strengthening the integrity of state courts, we can find common ground with our audience by emphasizing shared values. These values can include impartiality, fairness, and integrity. Weaving in core American values such as democracy, protecting rights, and freedom is also very effective (*for more on this, see A Note on Evoking Aspirational American Values and Ideals on page 19*). Elevating these shared values helps create an emotional connection with the audience, making them more open to hearing and accepting the information that follows.

In the table that follows, we outline several shared values and provide examples of how these have been expressed effectively in messaging. It is important to note that when we fail to include shared values such as these in our messaging, we cut off a critical pathway for connecting with potential supporters. It also means we leave these powerful values uncontested for the opposition to wield.

There are many ways to express these values effectively—and finding a way to do so that is both effective and authentic to your voice or a messenger’s voice is important.

Shared Value	Ways of Expressing These Values	Messaging Examples
Fairness and Impartiality	Judges should apply the law impartially, without bias, ensuring everyone is treated equally.	<i>“You want a judge that’s got integrity, that’s impartial, that’s fair, and listens to both sides of an issue.”</i>
Equal Access to Justice	The judicial system should be accessible and fair to everyone, particularly marginalized communities.	<i>“Our Wisconsin Constitution has an explicit right to education and making sure that the rights to education are equitable for all students. Our Constitution protects the right to a fair democracy and fair elections. I think that is something that gets lost when we’re only talking on a case-by-case basis, and not necessarily the bigger picture of these values that are in the Constitution.”</i>
Healthy Skepticism	Healthy skepticism of government and a belief in government accountability is good for democracy.	<i>“As Montanans, we demand and require our government be accountable. We are a questioning people. We question our government. We question our leaders. And that’s a good thing.”</i>
Understanding Local Culture	Judges should have an understanding of local cultures, particularly Indigenous populations.	<i>“It’s really, really important that our judges understand Alaska Native history, communities, relationships, and cultures, because that’s going to have a really big impact on how they interact with people in the courtroom.”</i>
Community and Representation	The judicial selection process should reflect the diversity of the community, including input from ordinary citizens.	<i>“One thing that I think is really great about the Judicial Council is that it’s not just lawyers. There are three public members and three attorney members. You get input and perspective from people who are ordinary citizens.”</i>



Separation of Powers	The independence of the judiciary should be protected—especially from other branches of government—to ensure fair rulings.	<i>“The Founders intentionally separated the judicial branch from the executive and legislative branches because they believed only an independent judiciary could prevent the other branches from overstepping and threatening our constitutionally-protected freedoms.”</i>
Insulating Judges from Political Influence	Judges should not be influenced by political contributions or external financial pressures.	<i>“All of this is turned upside down when political parties become involved. It’s also turned upside down when individuals or out-of-state corporations or out-of-state interests are allowed to write unfettered checks and contribute huge amounts of money. In other states, like Texas, for instance, holy Moses, there is no limit. And as a result, people are swayed by political contributions. Political parties have no business being in this process.”</i>
Responsible Citizens Have an Obligation to Do Their Research	To be a responsible citizen, it is essential to look into and learn more about things that impact how our democracy works.	<i>“I’ve always tried to vote. I never really put much thought into the judges that were on the ballot until a really good friend of mine, who’s very knowledgeable about these things, told me about some politicians in Juneau that were trying to change how the judges were picked. And I thought that kind of set up a red flag in my mind. So, I kind of did a little research.”</i>

Finding the Venn Diagram of Shared Values

It’s not uncommon for advocates to strongly disagree with some of the deeply held values and beliefs of target audiences. This can lead advocates to explicitly and implicitly dismiss, argue with, or even ridicule perspectives that are different from their own. It can also lead both audiences and advocates to see themselves as having values that are fundamentally and irreconcilably at odds with one another. In some cases, that may be true. However, we cannot—at least in the short term—change our audience’s core values any more than they can change ours.

To effectively engage our audience, we need to tap into the Venn diagram of values—the places where the values of our audience overlap with those of advocates. When we build our messaging on pre-existing shared values, we can foster familiarity and help our audience to put more weight on things that lead them to be supportive, rather than on the values or beliefs that interfere with support. This approach can also help our audience come to see the action we want them to take as being in line with who they already aspire to be and what they already believe and value.





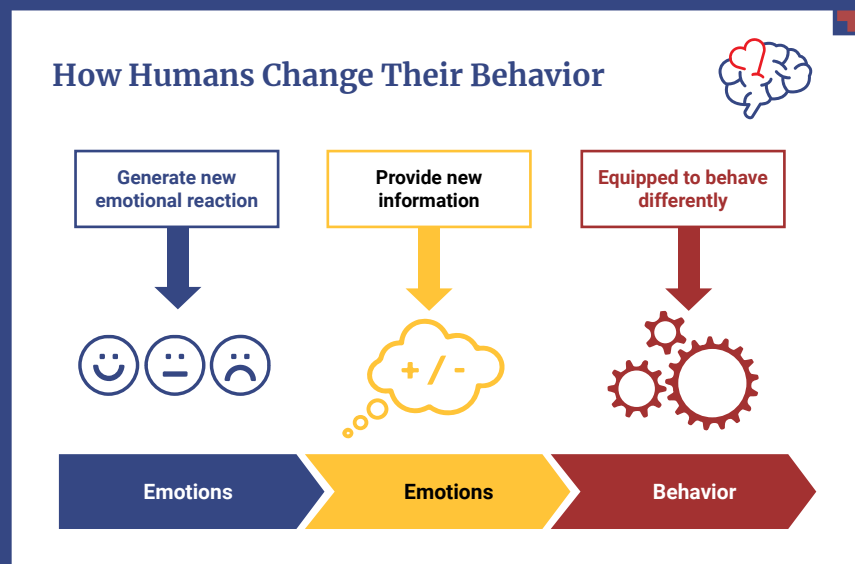
The Power of the Emotion First, Reason Second Dynamic



For decades, the work of many social change makers centered around the idea that if you just got the right information in front of your audience it would lead them to consider an issue differently. In this model for change, the new information generates new attitudes on the issue, and these new attitudes ultimately lead to positive changes in people's behavior.

Over time, brain science and audience research has revealed that this is not how human beings actually change. While many of us pride ourselves on being rational thinkers, human beings are driven primarily by emotion. Our emotional reactions happen first, instinctively, and then our brains work to quickly provide us with a rationale—the reasoning for feeling how we feel.

For us to generate positive change among our audience, we must first help to generate a new, different emotional reaction than the one they may currently experience when they think about our issue. Then, provide them with new information that supports the new reasoning. This emotion first, reasoning second dynamic enables our audience to develop and hold on to new beliefs or attitudes—ones that are more supportive of our issue. Over time, these new, supportive attitudes equip our audience to behave differently, including taking positive action.





Sprinkle in key American ideals that resonate with our audience.

While many among our audience have a limited knowledge of state courts, they nevertheless hold a deep appreciation for the fundamental ideals of American government captured in phrases such as *checks and balances* and *rule of law*. Importantly, this and previous research we have conducted show that these ideals and phrases resonate even more strongly for our audience as they engage on topics related to judicial integrity. As such, it is effective to incorporate these ideals and phrases into your messaging wherever possible.

However, the power of these phrases can vary significantly by race and ideology (see the following table). For example, Black voters are less likely to view the phrase *fair and impartial courts* favorably compared to white, API, Hispanic, liberal, and conservative voters. Drilling into the numbers, we see that 74 percent of white voters view *fair and impartial courts* favorably (v. 13% unfavorably), while only 56 percent of Black voters view *fair and impartial courts* favorably (v. 22% unfavorably). Although these results do not suggest avoiding any of these phrases outright in your communications, you may wish to consider using different phrases in your messaging based on the segment of our audience.

Key American Ideals: Favorable v. Unfavorable Ratings by Race & Ideology*							
	White	Black	Hispanic	API	Liberal	Conservative	Moderate
Fair and impartial courts	74%/13%	56%/22%	69%/21%	74%/12%	75%/16%	74%/14%	60%/18%
Justice not politics	72%/14%	59%/23%	70%/16%	69%/16%	74%/15%	73%/15%	60%/20%
Fair courts	71%/14%	54%/27%	68%/20%	71%/12%	77%/10%	72%/16%	62%/20%
Rule of law	68%/14%	64%/20%	71%/17%	76%/10%	72%/15%	74%/11%	57%/19%
Judicial integrity	71%/13%	55%/25%	66%/20%	72%/12%	72%/14%	72%/15%	60%/17%
Checks and balances	65%/13%	53%/23%	59%/20%	69%/14%	74%/10%	69%/13%	58%/17%
Separation of powers	65%/15%	46%/28%	62%/22%	71%/8%	67%/24%	66%/15%	52%/19%
Access to justice	69%/13%	58%/24%	64%/17%	69%/14%	75%/14%	70%/13%	57%/19%
Judicial independence	61%/14%	51%/24%	57%/18%	68%/11%	66%/14%	64%/17%	57%/17%

*Total favorable ratings shown on the left/total unfavorable ratings shown on the right. Results shown here do not include the proportion of voters who indicate being unsure about each phrase.



A Note on Evoking Aspirational American Values and Ideals

Some advocates may feel uncomfortable using language that they perceive as glorifying or promoting American exceptionalism and American values, given the United States' long history of systemic racism and its problematic actions both at home and abroad. At the same time, our audience believes deeply in what they see as core American values—values such as fairness, opportunity, justice, and freedom.

It is important to remember that as advocates we also believe in these values. We share a belief with our audience that our country should live by these values, even as we recognize that these ideals are not yet fully realized. That is what makes them aspirational American values.

The research shows it is, in fact, possible for us to weave these aspirational shared values into our messaging and connect broadly with our audience—and to do so without alienating people within our audience who differ from each other in terms of their identity, lived experience, and beliefs. We invite you to think about how you might integrate some of these core American values into your communications.



Acknowledge the moment we are in, including our audience's concerns about state courts.

On the surface, acknowledging there are issues with the judicial system may feel like we are ceding ground to our opponents—or may even be making their case for them. However, issues we know exist—like a distrust in government—loom large for many among our audience, and they have deep concerns about them.

When we ignore problems with the current system, or use language like *maintain judicial integrity*, it can come across as advocating for the status quo—including all the problems that exist within it—which decreases support among our audience. Using acknowledgment structures is a way to help affirm our audience's existing concerns and help them to manage those concerns, while also expressing support for judicial integrity.

The following is an example of acknowledgement that was tested in the research and resonates strongly with our audience:



While it's true that America's state courts have not always lived up to this standard, it is imperative that we continually strive to improve and reform state courts so that everyone can rely on them to apply the law fairly and impartially and to protect people's freedoms and liberties. For example, we need to ensure state courts are free from outside influences like special interests, and that politicians can't manipulate the system to influence—or even control—what judges decide. This would help state courts deliver equal justice and give every person a ruling that is independent, impartial, and fair.





The Power of Acknowledgment Structures



Acknowledgment structures are often an effective way to foster connection and increase our audience’s capacity to engage with our messaging and communications. To acknowledge is to name, rather than avoid or dismiss, the concerns that our audience holds and that are currently getting in the way of them being supportive or being open to new thinking. Acknowledgment shows them we understand what their point of view is. It helps our audience to feel seen in our messaging. This helps keep the conversation going, allowing us to then introduce a new idea that our audience can engage with.

While some may worry that acknowledging audience concerns is akin to restating opposition messaging, it is quite different because we are acknowledging concerns our audience already holds—and ignoring the reality for those concerns only hurts our credibility.

Recognizing their concerns in our messaging, then pivoting to put those concerns into a broader context and to provide new information or reminders that can help to manage them, can equip our audience with what they need to calm their concerns—something critical for them to become more supportive. Importantly, our messaging doesn’t need to imply agreement with those concerns, just acknowledge them.

It is essential to keep in mind that the goal is to grow support among our audience—and to do so our messaging needs to engage and persuade them (not us). While it can feel emotionally satisfying and affirming to message in ways that resonate for us as advocates, if we don’t connect with our audience, recognize the concerns they have, and help them to manage and calm those concerns, these concerns will continue to be immovable roadblocks for our audience, and it is unlikely they will become supportive.

Each step we can equip our audience to take is important. What we are doing is helping our audience to take the positive steps that are *possible* for them in this moment, with the hope that those steps lead to more steps, and eventually to our ultimate goal.



Tie the role of state courts to the most important issues of our time, including threats to our democracy and extreme political gerrymandering.

Many people do not fully understand the role that state courts can play in helping to stop efforts by extremist politicians to take away people's rights and freedoms—including the right to vote and have that vote be counted, the right to fair representation, the right to reproductive freedom, and workers' rights. State courts also can influence public health policies to deal with global pandemics and environmental policies to address the ravaging effects of climate change. Here is an effective example tested in the research:



State courts have become the last line of defense against political gerrymandering and other partisan efforts to undermine our elections. When establishment politicians and their political machines try to manipulate voting districts to win elections, state courts can stop them from moving forward. We need independent state courts to combat the most extreme excesses in our political parties.



Name and normalize a lack of familiarity with state courts and laws.

When messengers acknowledge the complexity of the judicial system and processes—or discuss having once been unfamiliar with their state's court system and laws and how they learned more about them—it helps to normalize our audience's own lack of familiarity and builds identification with the messenger. This helps create an openness among our audience to learn more. In particular, using social modeling to share a journey from unfamiliarity to reflection to a change of perspective is powerful. Starting from a lack of familiarity we can help guide our audience through conflicting emotions or broken reasoning chains toward support. This includes:

- ▶ Showing how the messenger was initially unfamiliar and learned from friends, neighbors, or colleagues and/or educated themselves about the topic to become more aware and informed. To do this effectively we need cues that suggest an appropriate passage of time and include a precipitating event that led to a change of heart.
- ▶ Rooting our messenger and our audience in their lived experiences around being an engaged citizen and wanting to hold government accountable.
- ▶ Including cues and message frames that indirectly encourage our audience to step back and reflect, return to their *thinking* brain (see page 22 for more), and reaffirm their core values. The story also needs to clearly lay out the experiences, thinking, and values that led the messenger to feel differently than they did initially. If the journey is too easy, it is not perceived as genuine by our audience.
- ▶ Finally, affirming positive outcomes by helping our audience to see the positive impact of the journey. This provides important reassurance that, despite lingering doubt or internal conflict, the action we want them to take or position we want them to support ultimately brings positive outcomes.

Key Concept: *Upstairs Brain/Downstairs Brain* ✨

UPSTAIRS BRAIN

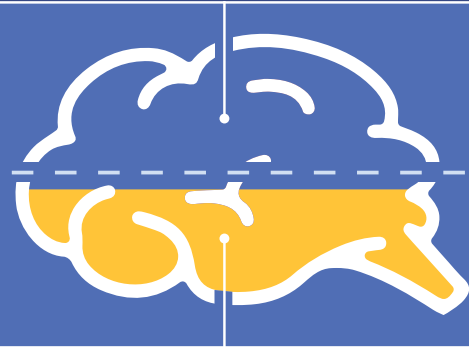
When human beings feel relaxed and comfortable, we tend to rely on our *Upstairs Brain*—the part of the brain that is responsible for our higher-order thinking, reflection, and empathy.

DOWNSTAIRS BRAIN

When something is unfamiliar or uncomfortable for us or when we feel conflicted, the amygdala—sometimes called the *Downstairs Brain*—kicks into high gear. This is the part of our brain that regulates big negative emotions like fear, anxiety, and anger. Those emotions are like noise that can shut down our ability to hear thoughts from our thinking brain. As long as the amygdala is overly triggered, the brain is unable to process the messages we want our audience to consider, which interferes with their ability to reflect, reconsider, and ultimately to change behavior. The audience remains emotionally stuck and conflicted.

Upstairs Brain

Responsible for decision-making and planning, control over emotions and body, self-understanding, empathy and morality. Allows for empathy, which is a precursor to altruistic behavior.



Downstairs Brain

The primitive brain is responsible for basic functions, innate reactions and impulses and strong emotions. Shuts down the *upstairs* brain to respond to fear and focus on survival.



Highlight the role of state constitutions—and state courts' role in upholding the values enshrined within them.

Our audience appreciates how state constitutions are distinct yet powerful legal frameworks that often provide greater protections than the U.S. Constitution. They often express a sense of pride that while the U.S. Constitution sets a baseline for rights, their state constitution frequently sets higher standards, offering more expansive interpretations of various protections. The following is a powerful example—an excerpt from a video by the Brennan Center that was tested in the research:



The rights listed in the United States Constitution are a floor, not a ceiling. As a citizen of your state, you have rights above and beyond those in the United States Constitution, guaranteed in your state constitution and interpreted by state courts.

At the same time, there is a prevailing sense of public skepticism, with many people feeling that their state constitutions are not living up to the promises established therein. This gap between the protections offered and the real or imagined shortcomings shows the need for more state-specific research on how to effectively message around how state constitutions are upheld and what reforms might be necessary to help align state realities with the promises described in their constitutions.



Fill our audience’s key knowledge gaps on state courts and laws—and connect the dots to show how state courts work well.

In general, our audience does not have a clear understanding of how our state or federal judicial system works, nor do they understand the role or scope of their state’s constitution. Therefore, it is critical to help fill our audience’s knowledge gaps and work to effectively connect the dots between the risk we are highlighting—what is at stake—and the solutions or aspirational vision we are supporting. The following are several ways to accomplish this:

- **Use plain language and simple facts.** We can help our audience connect the dots by using plain language and embedding simple facts about state courts and laws into storytelling. This helps disrupt any flawed understandings they may have and draws clear links to show how state courts work well.
- **Emphasize added protections.** Provide information about how state constitutions—and the rights they include—go above and beyond the federal constitution. Including a few key examples, rather than an exhaustive list, is effective with our audience.
- **Provide key historical information.** Provide historical information about each state’s constitutions and, if possible, describe the reasons why the state founders drafted the constitution in the way they did.
- **Show the impact of courts.** Highlight the fact that state courts resolve the vast majority of legal cases in the United States. Also, provide information and examples that show the impact that state courts have every day on the lives of Americans.

Depending on the state you are developing messaging for, you could also:

- ▾ Provide facts about the state judicial system and the way it works well (especially in contrast with another state). However, avoid comparisons to multiple other states, which can confuse our audience (*see page 28 for more on this*).
- ▾ Discuss the judicial selection system and how each state’s founders established that system in the state constitution.

The following are examples of state-based fact sheets tested in focus groups conducted in Montana and Wisconsin. These fact sheets provide key information about each state’s constitution, which help fill our audience’s knowledge gaps and begin connecting the dots back to how they are impacted by their state constitution. Many focus group participants were surprised to learn about having more rights guaranteed in their state constitution than in the U.S. Constitution—and they were eager to learn more.

Protecting Montana’s Rights, Freedoms, and Traditions



Our constitution preserves the things that make Montana special. This landmark document guarantees Montanans at least 17 more rights than can be found in the federal Constitution, including:

- **Right to a clean and healthful environment:** Our constitution helps us preserve the quality of our land and water for future generations.
- **Government accountability, transparency, and the “right to know”:** Because of our constitution, government meetings and documents are open to the public, and we are guaranteed a voice in state decisions.
- **Recognition of Native American culture and history:** Our constitution provides the foundation for the preservation of Native American languages and Indian Education for All.
- **Nonpartisan redistricting/fair elections:** The constitution protects our democracy by making Montana one of the hardest states to gerrymander, having a nonpartisan commission draw our legislative districts.
- **Right to privacy:** Our constitution prevents the government from infringing on individual privacy “without showing a compelling state interest.”
- **Checks and balances for fair, impartial courts:** The constitution provides the foundation for our state legal system, including vital checks and balances between the branches of government. It also protects the rights of individual Montanans within that system, including due process, access to justice, a fair and speedy trial, and the rights for citizens to sue government.

When it comes to our constitution, the whole is greater than the sum of its parts. These rights and freedoms work together, providing the foundation that allows us to self-govern and helps our communities and economy to thrive.

Protecting Wisconsin's Rights, Freedoms, and Traditions



Our constitution preserves the things that make Wisconsin special. This landmark document guarantees Wisconsin residents more rights than can be found in the federal Constitution, including:

- **Right to education:** Our constitution explicitly guarantees the right to an education, ensuring that education is not only accessible but also free for children within the specified age range of 4 and 20 years.
- **Increased government transparency:** Because of our constitution, government meetings and documents are open to the public, and we are guaranteed a voice in state decisions.
- **Labor rights:** Our constitution includes provisions related to labor rights that offer protections to workers, guaranteeing the right of employees to organize and bargain collectively, which may offer additional protections beyond federal labor laws.
- **Fair elections/Nonpartisan redistricting:** The constitution protects our democracy by including language that emphasizes criteria for drawing electoral districts that are compact and contiguous, making it harder to gerrymander districts and easier to challenge gerrymandered districts in court when politicians try to force them through.
- **Empowering local government:** Our constitution grants local governments substantial autonomy through the principle of "home rule." This provision empowers local communities to govern themselves and make decisions that are tailored to their unique needs and circumstances.
- **Right to hunt and fish:** Our constitution explicitly protects the rights of citizens to hunt, fish, and trap.
- **Victim's rights:** The constitution includes provisions related to the rights of crime victims, such as the right to be informed about court proceedings, as well as the right to restitution.

When it comes to our constitution, the whole is greater than the sum of its parts. These rights and freedoms work together, providing the foundation that allows us to self-govern and helps our communities and economy to thrive.



Show—don't tell—the threats and harms facing state courts and judicial integrity.

Many of our research participants have little knowledge about the large role state courts play in everyday life. As such, when we say things like *judicial integrity* or *politicizing the courts*, many people have little or no idea what that means. Their minds may go to something they already believe or have heard before—for example, that the integrity of courts is already in question or that they already are politicized—or they may fill in the gaps on their own in ways that are not helpful to us.

Similarly, many among our audience are not very familiar with how courts work in their state—including how judges are selected or retained. For example, some research participants do not realize they live in a state where state court judges are elected by popular vote, while others are not aware that their state court judges are selected via an appointment system.

When we show—rather than tell—about the threats and harms state courts face, we can activate a sense of urgency among our audience to protect or correct what they perceive to be an important institution before it is too late. Showing, not telling, means describing for people the concrete threats and harms courts face and describing these harms in a vivid and evocative manner. Using descriptions that allow people to paint a picture of the harm in their own minds is far more effective than relying on a label or declarative statement merely asserting that a certain policy is bad or harmful.

The following is an example of a message tested in the research. This example, which focuses on showing the harms, strongly resonates with our audience:



Independent state courts play a critical role in stopping state politicians and unelected bureaucrats from abusing their power and taking away our rights, property, and freedoms. It is our responsibility as residents of this state to call out politicians when they are taking steps to undermine the authority of state courts—especially as a way to grab more power for themselves.



Share a positive vision of the future that is rooted in shared values.

A powerful way to create an emotional connection with our audience is by providing an overarching and aspirational vision. This vision is most effective when it is rooted in shared values and situates state courts within a larger narrative about how the United States should continually strive to live up to its core values and ideals.

Harnessing our audience's emotional response is critical when we are trying to change their attitudes and behavior. So, while the aspirational vision statement can include references to specific policies, it should also paint a broad values-based future to help create an emotional connection with our audience.

The following vision statement, tested in this research, provides a useful example. Note that the statement elevates shared values such as fairness and objectivity early on, which helps to connect with and engage our audience. The aspirational vision also closes with shared values such as delivering fair rulings and equal access to justice—which helps to reconnect with our audience on an emotional level.



Although many people are unaware of the role state courts play in people's lives, state courts are where most of the legal business of American society is actually conducted. In all, approximately 95 percent of all the legal cases in the U.S. are decided in state courts.

America's founders designed our court system to ensure the United States would be a nation based on the rule of law, and that courts at the federal and state level would be one of three co-equal branches of government to ensure there are checks and balances on power. People rely on their state courts not only to uphold the state constitution and protect the people's rights, but also to give everyone a fair hearing and resolve disputes objectively based on the evidence presented.

While it's true that America's state courts have not always lived up to this standard, it is imperative that we continually strive to improve and reform state courts so that everyone can rely on them to apply the law fairly and impartially and to protect people's freedoms and liberties.

For example, we need to ensure state courts are free from outside influences like special interests, and that politicians can't manipulate the system to influence—or even control—what judges decide. This would help state courts deliver equal justice and give every person a ruling that is independent, impartial, and fair.

State constitutions have evolved over time, ensuring each state's core principles and priorities are enshrined into their state's guiding document. State courts have also evolved over time, and they need to continue to do so to ensure everyone has equal access to justice.

Many research participants agree that state courts should improve and that state courts have “evolved over time.” They also deeply value fair rulings and believe that keeping outside influences out of court decisions are important.

There is also a sense of surprise among our audience when it comes to the percentage of cases handled at the state level, something they note as intriguing. Some also note and agree that “the foresight our Founding Fathers possessed” is “remarkable” and state constitutions are “true and reflective of our nation’s founding principles.”



Messaging Nuances: Things to Consider...and to Avoid



Be cautious when discussing problems with state judicial systems.

Take care when discussing problems with the state judicial system. Talking about issues like racial disparities in sentencing can erode trust in the integrity of the state judiciary. Ultimately, it is important to leave our audience with the impression that state courts, even with their problems, are generally fair and impartial.



Avoid using absolutes in messaging.

Our audience does not respond well to absolutes in messaging. For example, one video messenger tested in our dial test survey made a broad statement implying that all of the state’s judges have high integrity. Respondents dialed down this phrase dramatically—to them it is an overly optimistic sentiment, especially without evidence to support it.



Avoid comparing multiple states with each other.

Avoid making comparisons among and between various states. Our audience is starting with a limited understanding of how the state courts system works and can be confused by learning how different states can be from one another. Instead, limit the contrast to our audience’s own state versus one other state. States with newer constitutions can be an exception—for example, when talking about learning what works and what doesn’t in other states.



When constitutional amendments are numerous, avoid naming the number.

If a state constitution has been amended many times, avoid naming that number. In the research, our audience expresses concern when they are provided with examples of states that have amended their constitutions a significant number of times (e.g., 977 times in Alabama). They react negatively to the notion that foundational laws like state constitutions can be changed too easily, implying there is instability in state governments. Therefore, when discussing state constitutions, consider broader messaging that highlights how state constitutions are easier to amend than the U.S. Constitution, and they can evolve, as needed, to expand rights among our audience’s state.



Avoid overly rosy assessments of state courts and state judges.

In general, our audience feels all institutions in state government can use improvement and that no institution is perfect. Therefore, they often react negatively to statements that suggest that the state court system is perfect.



State-Specific Findings and Nuances

Alaska



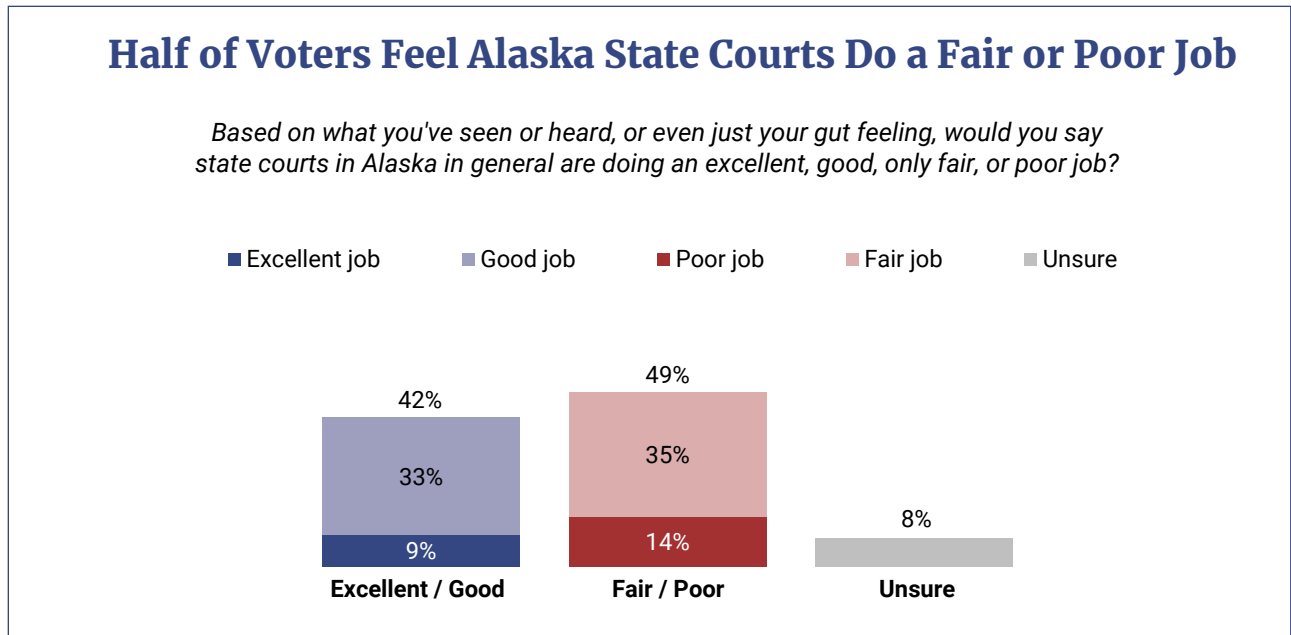
The following are findings and nuances specific to research conducted among our audience in Alaska. This is meant to build upon the overarching set of findings and messaging recommendations presented earlier in the guide.

Additional Findings and Nuances

○ **General Lack of Awareness about Alaska's Judicial System:** Most focus group participants in Alaska say they rarely engage with news or current events related to the courts and feel they are not well-informed about their state's judicial system. This lack of knowledge contributes to a sense of detachment from judicial elections. Despite this, participants acknowledge the importance of the judiciary and assume the courts play a fair and vital role in society.

“I don't know much about the Alaska courts; I don't pay much attention to court cases in Alaska. I do review committee recommendations when it comes to voting on judges in Alaska.”
– White Woman, Liberal, Alaska

○ **Few Believe State Courts Are Doing an Excellent Job.** When asked in a dial test survey how they think state courts in Alaska were doing, nearly half (49%) of voters say the courts are doing a fair or poor job, 33 percent say the courts are doing a good job—and just nine percent say excellent.



○ **Curiosity and Interest in Learning More:**

There is a clear curiosity among focus group participants to learn more about the judicial system, especially when information is provided. They appreciate efforts to educate them, creating opportunities for deeper engagement.

“Most all new information for me. Makes me wonder now how the Judicial Council is doing and now wanting to find out.”
– Alaska Native Woman, Moderate, Alaska

○ **Concerns About Judicial**

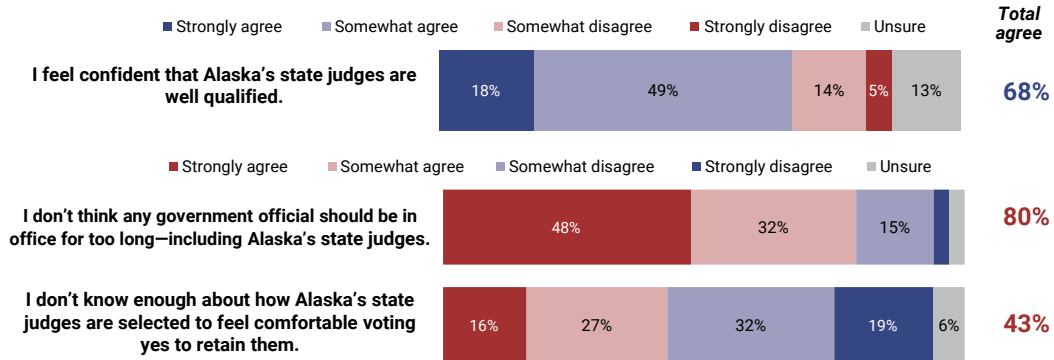
Tenure: In focus groups, Alaska voters, especially those who lean towards voting *No* in judicial retention elections, cite concerns about judges remaining in office for too long. They express a preference for cycling new people into the judiciary, viewing it as a form of term limits. Some focus group participants worry that long-serving judges might become complacent, leading to cronyism or even corruption. These findings are consistent with what we see in the dial test survey, where the vast majority of Alaska voters think government officials—including Alaska’s state judges—should not be in office too long.

“I always worry that a judge gets too comfortable in their position if they are there too long, and that comfort is often reflected in shoddy work, cronyism, or, in extreme cases, corruption. By changing up judges, there is also a smaller chance that the public will have time to become distrustful of the new judge (as long as they have met strict standards of qualifications before election).”
– White Woman, Liberal, Alaska

“I usually vote No because it is too hard to know anything about the judges easily.”
– White Woman, Conservative, Alaska

Nearly Half of Alaska Voters Feel State Officials and Judges Should Not Be in Office for Too Long

Please indicate how much you agree or disagree with each of the following statements.



🕒 **Apprehension About Voting on Judges:** Many among our audience in Alaska feel unprepared to make informed decisions about judges due to a lack of accessible information. As a result, some default to voting *No* or skipping judicial election questions entirely. Others vote to retain judges unless they have heard specific negative news, presuming judges are fair and should remain in place.

🕒 **Receptive to Messaging on Judicial Disruption:** Our Alaska audience is generally unaware of the potential disruption that could be caused to the court system by voting *No* on all judges. Many participants in the research, particularly those who were previously unaware of this possibility, may reconsider their voting choices when messaging highlights the implications.

“... we could lose all of our judges in an election. With today’s cancel culture, more people may vote No, for no valid reasons, and our state will have a lot of problems.”
– White Woman, Conservative, Alaska

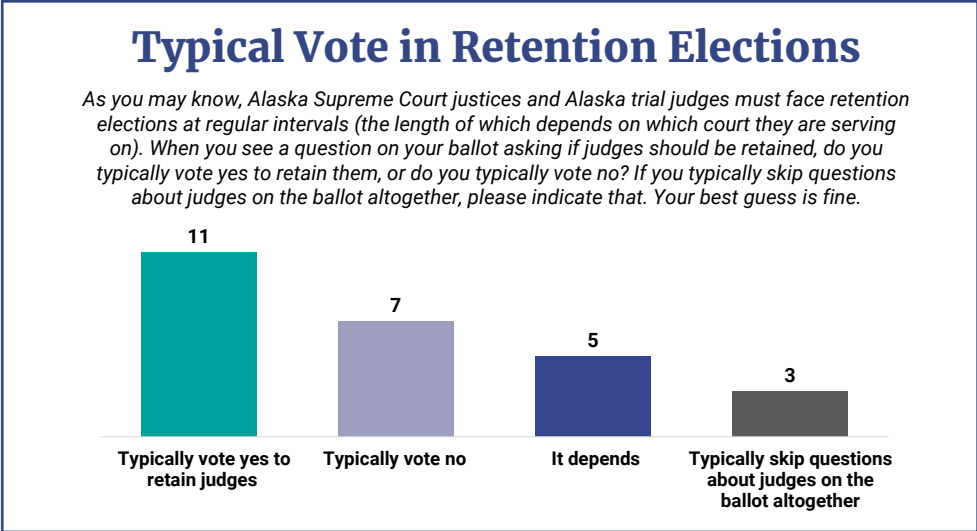
🕒 **Trust in Non-Politician, Relatable Messengers:** Participants in the research respond positively to videos featuring non-political messengers who clearly established their background and credentials (see the messenger video deconstruction on page 36 for more). These messengers come across as trustworthy and relatable, particularly when they speak with clarity about the judicial process and their personal experiences.

“I was immediately interested in what she had to say after she indicated that she was a small business owner, and then a former attorney. She was well spoken and seemed passionate about what she was saying.”
– Black/Native Man, Liberal,

🕒 **Desire for More Transparency and Information:** There is a strong desire among our audience in Alaska for more information about how judges are selected and the role of the Alaska Judicial Council. However, using terms like *cartel* or *secretive, elitist committee* to describe the Judicial Council often backfires because our audience views these attacks as being inflammatory, paranoid, and/or conspiratorial. They are more interested in understanding the specifics of how the Council operates and the criteria used in judicial selections.

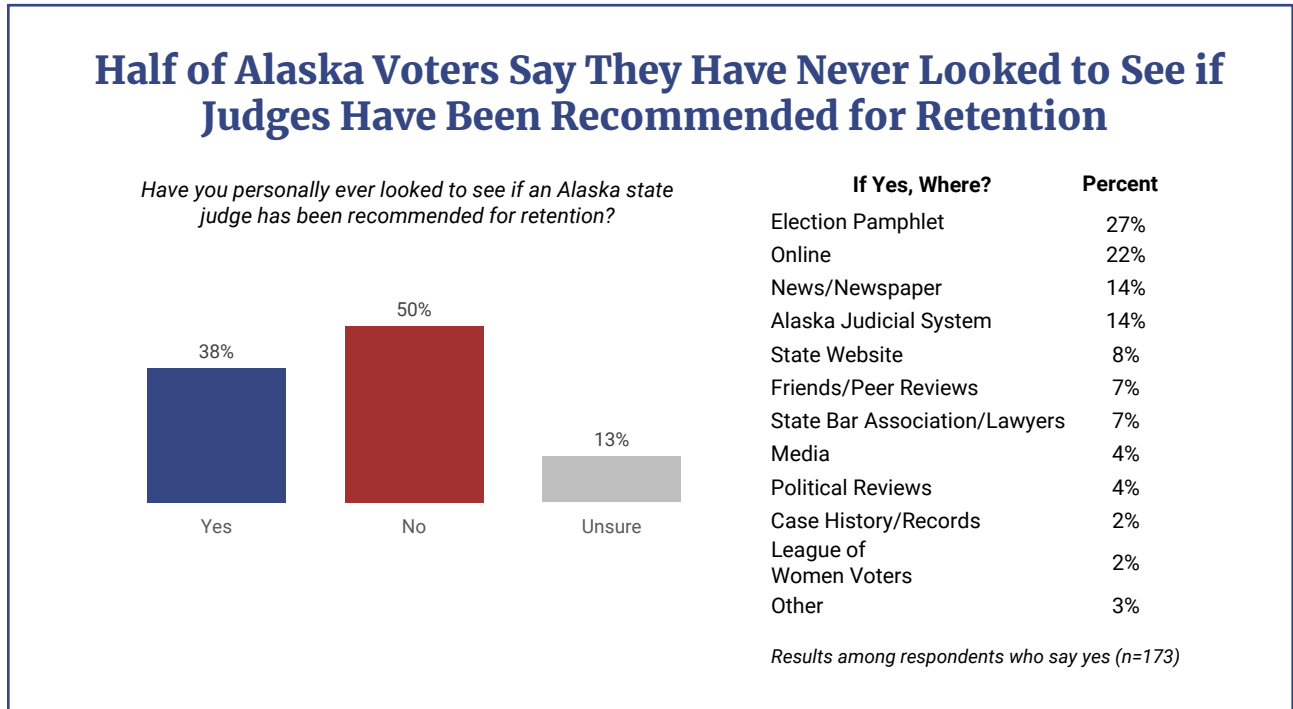
“Are the rich able to take unfair advantage of the system?”
– White Man, Liberal, Alaska

Reasons for Voting on Judges Vary: When focus group participants are asked about voting in retention elections, their responses are mixed, with many saying they typically vote Yes, but a significant portion saying they typically vote No. Also varied are the reasons participants give as to why they vote Yes, No, or skip voting on judges.



Reasons to Vote Yes on Judges: Many focus group participants say they vote Yes because, unless they hear negative news about a judge, they presume the judge is fair and impartial, so they should stay on the bench. Also, they are unsure who is going to replace the judge. However, some participants say their vote to retain a judge is based on the judge’s decisions on cases and if they personally agree with those decisions. Only one participant noted relying on the recommendations made by the Judicial Council. Results from the dial test survey also show a limited reliance on the Judicial Council for recommendations, with half (50%) of respondents saying they have never looked to see whether judges have been recommended for retention.

“If I agree with the majority of the judge’s decisions then I would be inclined to vote to retain their current position.”
 – White Man, Conservative, Alaska



○ **Reasons to Vote No on Judges:** Research participants say they would vote *No* if they saw negative news coverage of the judge, such as coverage that cited poor judgment, corruption, abuse of power, committed crimes, or evidence of extreme bias against a group of people or of extreme partisanship. Alaska participants also cite a belief that no one should hold a government position for too long and that new people should be judges (effectively a form of term limits). Some say they feel compelled to vote *No* when they feel they don't know enough about the judges to form a decision, or if the Judicial Council recommended a *No* vote.

“Voting no is creating term limits.”
– Alaska Native Woman, Moderate, Alaska

○ **Reason to Skip Voting on Judges:** Several participants gave reasons to skip voting on judges entirely. One participant says they skip voting if they know nothing about the judges and another says they skip if they are uncomfortable about voting for judges—that there must be a better way to decide whether a judge should keep their job.

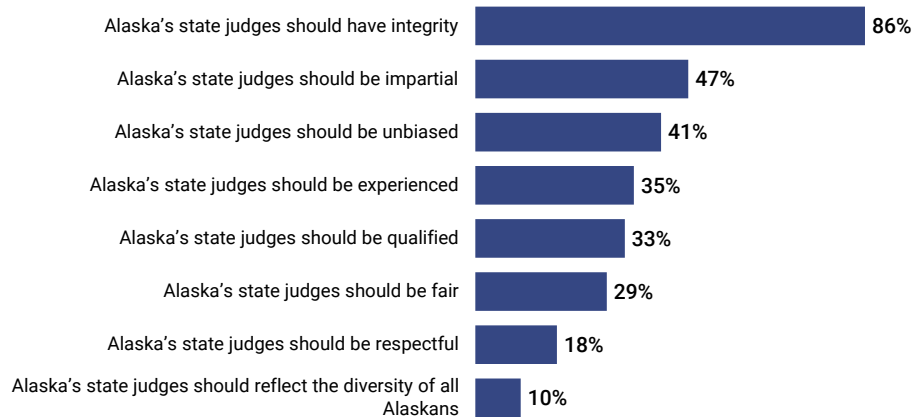
“I skip the question if I’m unsure (about the judges).”
– White Woman, Moderate, Alaska



○ **“Integrity” and “Justice Not Politics” Are Effective Concepts and Language:** In the Alaska survey, voters were asked to rank the importance of various characteristics of Alaska state judges. As shown in the following chart (left), 86 percent of respondents rank “integrity” as 1st, 2nd, or 3rd. In addition, respondents were asked to react to a set of phrases by indicating how warmly or coldly they feel about each. The following chart (right) shows that 76 percent of respondents rate “justice not politics” favorably. These concepts and language clearly resonate strongly with our Alaska audience—using them can help to make messaging more effective.

Integrity Is the Characteristic Most Often Ranked in Top 3 Choices

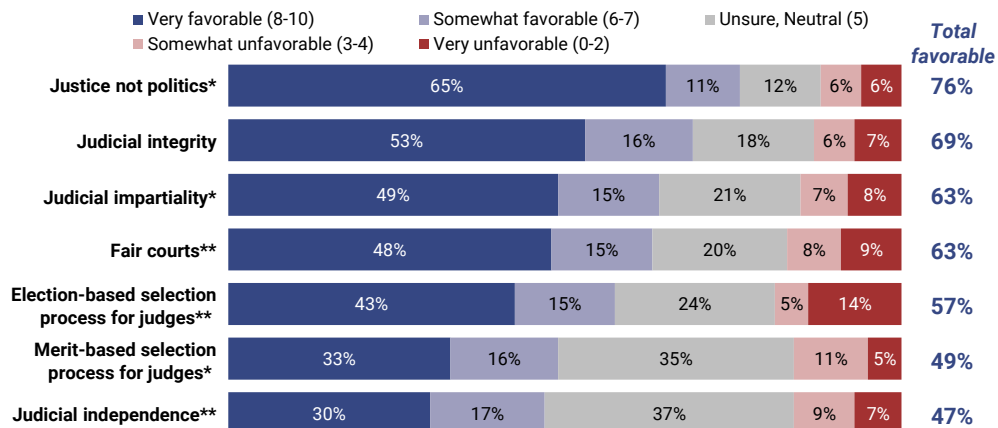
When you think about Alaska’s state judges, what kinds of characteristics do you think they should have? Please drag the following items and rank them based on how important you think each is for Alaska’s state judges:



Showing percent indicating as top three choices

“Justice Not Politics” Very Favorable Among 2 out of 3 Voters

Please indicate how warmly or coldly you feel about each of the following terms regarding the courts and judicial system in Alaska. Please use a scale from zero to 10, where zero means you feel very coldly or unfavorably, and 10 means you feel very warmly or favorably. You can choose any number from zero to 10.




Ranked by Very favorable (8-10)
*Split A (n=230), **Split B (n=227)

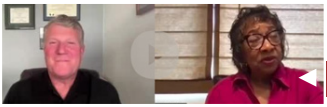
Additional Messaging Recommendations and Nuances

○ **Include Diverse, Relatable Messengers.** This is especially important for the Alaska Native segment of our audience who wants to hear from fellow Alaska Natives that understand the culture and can speak credibly about the needs of the Alaska Native community. In general, to make messengers more relatable and credible, consider messengers who come from less elite backgrounds or careers. In addition, encourage messengers to express initial skepticism (e.g., about the government)—which makes them more relatable to our audience—and talk about the importance of doing your own research.


Focus Groups Video Assignments

First Video


 **Sig Tapqaq**

 **Chuck & Eleanor**


OR

 **Sig Tapqaq**

Second Video

 **David Landry**

OR

 **Joelle Hall**

○ **Highlight the Role of Alaska’s State Constitution.** Highlight the role of the state constitution, how Alaska’s founders studied the constitutions of other states, learned lessons from them, and chose the features that worked best. Stating the Alaska judicial selection system is grounded in the constitution resonates with our audience.

○ **Show the Alaska Judicial Council Embodies *Justice Not Politics*.** Describe how the Alaska Judicial Council includes a wide range of everyday Alaskans with deep roots and experience in the state. Note also how Alaska’s founders designed the state constitution to ensure politics are kept out of the judicial selection process.

○ **Fill Knowledge Gaps to Connect the Dots From Courts to Alaskans.** Educate our audience about the importance of Alaska state courts and the number of lives the courts impact. This raises the stakes for our audience and makes judicial elections important to them.

○ **Emphasize the Important Role Voters Play.** Stress that citizens play an important role in retaining *good* judges, which resonates with our audience and underscores the importance in participating in retention elections.

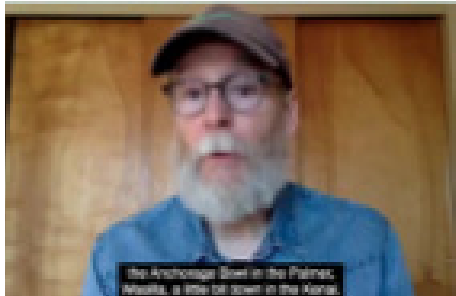
○ **Avoid Asserting Things That Our Audience Is Skeptical About.** Asserting something that our audience is skeptical about diminishes the effectiveness of our messaging. For example, in the conclusion of David Landry’s messenger video (see the following section for the full video transcript), he says: “You want a judge that’s got integrity, that’s impartial, that’s fair, and listens to both sides of an issue. And I think that’s what we get now.” While the aspirational language tested well, saying “that’s what we get now” did not.



Messaging Recommendations in Action: Deconstructed Messenger Video

The following is the transcript of an effective Alaska video messenger that was tested in the research. Along the side of the transcript, you will find a deconstruction of the content, noting various insights and messaging recommendations in action.

Messenger Video: David Landry



My name is David Landry. I'm a general contractor. I've worked on houses, all over the Anchorage Bowl in the Palmer, Wasilla. A little bit down in the Kenai. I can drive around and see houses I worked on for the last 40 years. My

parents moved here in the '50s before statehood. I was born in the newly minted state.

Growing up, I found myself to be a little bit skeptical and wary of what the government did. I thought it was something that it's good for people to keep track of, because it wasn't always great.

I've always tried to vote. I never really put much thought into the judges that were on the ballot until a really good friend of mine, who's very knowledgeable about these things, told me about some politicians in Juneau that were trying to change how the judges were picked. And I thought that kind of set up a red flag in my mind. So, I kind of did a little research.

I actually read the Constitution, which surprisingly, is a pamphlet about this big and, and it's kind of fascinating. Like, it just it's kind of the operator's manual for the state of Alaska. And I was pretty impressed. My main focus when I picked up the Constitution was to check out the section about how you pick judges in the state, and, the way I read it, that sounds a lot like how I would pick subcontractors. Like when my plumber retires, which he just did last year, I talked to him and asked him who he would recommend. I talked to other plumbers that I know, whom I've not necessarily worked with. I talked to homeowners, who have had different plumbers work on their projects. Good base of information on who to pick.

ON-SCREEN TEXT: David learned how the Alaska Judicial Council—the nonpartisan selection committee established by Alaska's constitution—carefully vets each person who applies to become a judge.

David leads with his personal background and establishes his deep Alaska roots. These details help build connection and audience identification with him as a messenger.

David begins to develop his journey story from a government skeptic to a believer in the Alaska judicial system. He elaborates on his beliefs and values and expresses his general skepticism of government—something that builds rapport among the more conservative segment of our audience. He also talks about this skepticism as the reason he feels a personal responsibility to keep tabs on what the government is doing and hold it accountable.

Here he talks about voting as a civic responsibility, which aligns with his desire to hold government accountable. Moreover, this desire drives his motivation to do his own research about the judicial selection system. For our audience, these details help to make him more credible as someone who can speak authoritatively about Alaska's state courts.

Here David cites the Alaska state constitution—which, according to the research, is highly valued by Alaskans—as a way to legitimize the current judicial selection system.

The onscreen text sets up the discussion David will have about how the Alaska Judicial Council selects judicial candidates, which is something our audience want more details about.

When they're picking judges, I learned that they talk to all kinds of people. They talk to police officers, they talked to other attorneys who've had experience with these people that are applying to be judges. They talk to social workers that have been in cases. They talk to staff at the courthouse. They, I mean, they really dig deep and try to get a really strong sense of how this person is going to do their job, which I think is pretty fantastic.

I still have a pretty healthy skepticism in what comes out of Juneau. But I think the judges are the least of my worries as far as what the government's doing. I think that they're doing a pretty good job that doesn't have a lot of political junk involved in it. They're calling balls and strikes like a good umpire, and when you have a day in court, that's what you want. You want a good umpire.

You want somebody that will make the right decision based on the law. You want a judge that's got integrity, that's impartial, that's fair, and listens to both sides of an issue. And I think that's what we get now.

David goes on to describe how the Alaska Judicial Council thoroughly vets judges, in part by relying on testimony from a wide range of people who have interacted with a judicial candidate.

This provides reassurances to our audience that the Alaska judicial selection system works and that the recommendations provided by the Alaska Judicial Council can be relied on.

David concludes his journey story by expressing his trust in the Alaska Judicial Council and Alaska state judges. He also caveats his trust by noting his ongoing skepticism of government in general. This helps to retain his credibility with our audience. It demonstrates that he is not magically converted from skeptic to believer—that his assessment about the Alaska Judicial Council is honest and comes from a place of objectivity. Also, remaining skeptical of the government gives him more credibility among conservative and very liberal segments of our audience that share similar distrust of the government.

David ends with an aspirational vision for Alaska's state court judges that resonates strongly with all segments of our audience. That said, many do note disagreement with the final line that asserts this vision has been achieved. We would recommend adding qualifying language to make this more effective (e.g., "And I think for most of Alaska's judges that's what we get now.")



Messenger Video: Meghan Sigvanna “Sig” Tapqaq



My name is Meghan Sigvanna Tapqaq. I'm a tribal citizen of the native village of Ambler and identify as Iñupiaq. I'm a practicing attorney up here in Nome, Alaska. Most of what I do is providing legal services to tribes. I

hadn't gone to law school because I wanted to litigate necessarily. I had gone because I wanted to support tribes and my people.

One thing that I didn't have a whole lot of knowledge about was how judges were selected. I came to realize that the system was actually quite complex. So rather than having an election, we actually have a merit-based system for selecting judges. So, there's this very rigorous process that you have to go to.

The Alaska Judicial Council reviews all the potential applicants to determine whether they might be the right fit to be a judge, finding a candidate who not only has that, you know, sort of book smarts, can read the law, interpret the law, but actually understands the real-life consequences and the fact that these are people that you're making huge determinations about.

One thing that I think is really great about the Judicial Council is that it's, it's not just lawyers. There are three public members and three attorney members. You get input and perspective from people who are ordinary citizens. And I think this is really critical, too, because as an Alaska Native woman, I'm, I'm very much underrepresented in the legal profession. If we didn't have those citizen seats, Alaska Native people might not necessarily have that level of representation that we have had, within that council.

And for me, this is absolutely vital because so many of our people end up having some type of involvement with the state, either criminal system or civil system. I think it's, it's really critical that we are able to have input and say on who those judges are going to be.

Sig begins by providing details about her Alaska Native heritage and her deep roots in the state. Establishing her background helps build rapport with the Alaska Native audience and allows her to speak authoritatively on the impact the state courts have on the community.

She also emphasizes her legal background to establish her credentials to speak about the Alaska Judicial Council.

Sig normalizes being unfamiliar with the judicial selection system and highlights her journey to seek information and become more knowledgeable about the system. This helps build credibility with our audience—many of whom also lack this knowledge.

Here Sig describes the Alaska Judicial Council and the criteria they use for their judicial recommendations to the governor. In the research, our audience will often express an eagerness to learn more—this kind of information helps to fill their knowledge gaps.

She continues by outlining how non-attorneys provide important input in the judicial recommendations—a detail that is interesting for our audience to learn.

Here, Sig provides details on what is at stake, emphasizing the impact judges have on the Alaska Native community—and how important it is for the community to have a say in the selection process. For our audience, being an Alaska Native who works in a legal capacity for Alaska Native tribes reinforces her credibility to make this statement.

One other aspect of the selection process includes going out to communities and holding public forums. It's a really great, positive way for people to be able to provide that additional layer of input to the Council as they make their decisions. It's really, really important that our judges understand Alaska Native history, communities, relationships, and cultures, because that's going to have a really big impact on how they interact with people in the courtroom. Even if a judge isn't Alaska Native, I think it's just it's really vital that they have some kind of connection, have kind of an innate understanding of what it means to be Alaska Native.

I personally feel that we're really fortunate in Alaska to have such a robust system for selecting and retaining judges, and I know that through that process, we are more likely to have good judges sitting on the bench making decisions about our people every day.

Sig summarizes several important points here:

- *Reiterates the role everyday citizens play in the Alaska judicial selection system—and the importance of their input being taken seriously.*
- *Emphasizes the importance of judges understanding the Alaska Native community when adjudicating cases, reiterating the stakes involved when selecting judges.*
- *Provides a sense of empowerment by emphasizing the community's involvement and input in how judges are selected.*

Sig concludes by describing how the current system makes it "more likely" that Alaska will have quality state judges. Note that while her closing is both positive and aspirational, she avoids the appearance of overpromising (e.g., that all state court judges in Alaska are good judges).



Montana



The following are findings and nuances specific to research conducted among our audience in Montana. This is meant to build upon the overarching set of findings and messaging recommendations presented earlier in the guide.

Additional Findings and Nuances

○ **Montanans Cherish Individual Freedom—and Mistrust Government:** There is a strong sense of individual freedom among Montanans that sits alongside a significant mistrust of government. Our audience notes being concerned with maintaining the balance of power between branches of government and is wary of judges who might overstep their authority or be influenced by political forces.

○ **Pride in Montana's Constitution:**

Montanans take pride in their state constitution, and they appreciate that it provides more rights and privileges than the U.S. Constitution (particularly around privacy and freedom of the press). Some also view it as progressive and inclusive, especially due to the involvement of women in its creation.

“It was written by 19 women and added so many parts that it takes hours and hours to teach it. It addresses privacy and freedom of press.”

– Native American Woman, Liberal, Montana

○ **Judicial Independence Highly Valued:**

In the survey, Montana voters place a high value on the independence of state courts from the governor and legislature—and the percentage of those who do increases after receiving supportive messaging. Before receiving messaging, 74 percent of Montana voters feel it is important for courts to operate independently, with this increasing to 79 percent of voters after messaging.

“Article 9: (1) the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations. (2) The legislature shall provide for the administration and enforcement of this duty.”


– White Man, Liberal, Montana

○ **Belief That Judges Should Be “Fair and Impartial”:** Montana voters feel strongly that their state judges should be “fair and impartial.” When asked to rank characteristics that are important for state judges to have, 76 percent of Montana voters ranked “fair and impartial” in their top two characteristics, compared to 65 percent in the national sample. Additionally, 63 percent of Montana voters ranked “impartial” in their top two characteristics (compared to 51% among voters nationwide). They are also more likely to believe that state judges should follow the state constitution (84% vs. 78% among voters nationwide).


○ **Negative Perceptions of the Judiciary:** Cynicism about the judiciary is notable among Montana voters. Despite valuing fair and impartial judges, many Montanans express negative perceptions of the judiciary, often lumping judges in with other political elites. There is a pervasive belief that judges, like politicians, may not truly represent *the people* and are out of touch with ordinary citizens. Many express concerns that judges might act based on political motivations rather than impartial legal interpretations.




Effective Messaging: The most compelling messages for Montanans are centered around safety, checks on political power, and the design of the judiciary:

 **[SAFETY]** *Everyone should be able to feel safe when they are doing their job. No one should have to worry about being pressured to do something they think is wrong, or worse, threatened with physical violence—and this includes judges. According to the U.S. Marshals Service, threats to judges and other court officials increased 400% from 2015 to 2021. How can we expect a judge to make a fair ruling if they're worried about being attacked going to the grocery store or picking up their kids from school? We need to protect the integrity of our judicial system, and that includes keeping judges and court officials safe from harm.*

Eighty-one percent (81%) of Montana voters find this safety message compelling (48% extremely compelling).

 **[CHECKS ON POWER]** *Independent state courts play a critical role in stopping state politicians and unelected bureaucrats from abusing their power and taking away our rights, property, and freedoms. It is our responsibility as Montana residents to call out politicians when they are taking steps to undermine the authority of state courts—especially as a way to grab more power for themselves.*

Seventy-eight percent (78%) of Montana voters find this message about checks on power compelling (47% extremely compelling).

 **[DESIGN]** *Just like America's Founders, the people who wrote each state's constitution intentionally made state courts separate from the executive and legislative branches because they believed only an independent judiciary could prevent the other branches from overstepping the authority given to them. When other state officials, like the governor or state legislators, try to interfere with the independence of state courts, they're undermining the original design of our democracy, threatening our liberties, and fundamentally violating a core principle of America.*

Seventy-nine percent (79%) of Montana voters find this design message compelling (45% total compelling).

Negative messages about protecting communities and disciplining biased judges also resonate, though less strongly.



Messaging Recommendations in Action: Deconstructed Messenger Video

The following is the transcript of an effective Montana video messenger that was tested in the research. Along the side of the transcript, you will find a deconstruction of the content, noting various insights and messaging recommendations in action.

Messenger Video: Lucas Foust



My name is Lucas Foust. I'm an attorney in Bozeman, Montana. I'm originally from Columbia Falls, Montana. My wife, Heather, is a native Montanan. I have been practicing law for the past 26 years. I

handle cases that make their way to the courthouse and eventually are tried before 12 members of our community.

One of the critical parties involved in the process is the district court judge in Montana. One of the things I do in my community is I referee high school basketball. My job as a basketball referee is to apply the rules in an even manner, to make the process as fair as possible. District court judges do this every single day.

In Montana, we're lucky enough to have a state constitution that extends our rights and protections further than the federal Constitution. This state constitution was created by Montanans for Montanans. It has extended protections and rights to a clean and healthful environment. For instance, it's extended rights to privacy. A critical part of being a Montanan is to be left the heck alone. And importantly, it requires a free, open, and transparent process for our decision makers.

As Montanans, we demand and require our government be accountable. We are a questioning people. We question our government. We question our leaders. And that's a good thing.

One of the strengths of judicial election laws in Montana are the limits that are placed upon contributions that can be received by a particular state court judge. This limitation, along with making the races non-partisan, continue to push the notion that there is fairness in our state court judges and in our state courts. This is critical. And for citizens in this state to be able to have a fair shake when they go to court.

Lucas begins by discussing his Montana roots and his legal background, providing a point of connection with our audience while building credibility as an authority to speak about the state court system.

Lucas emphasizes the importance of judges being fair and impartial, using a sports metaphor about refereeing in his community. Sharing relatable background information like this helps to further build audience identification and connection.

The research indicates that, across the political spectrum, our audience—including conservative segments of our audience—respond positively to information about state constitutions and the role they play in guiding state courts and judicial rulings.

Lucas highlights the shared value of healthy skepticism and his belief in government accountability. This resonates strongly with our audience.

Lucas goes on to describe how Montana judicial elections are far less political than in other states—and that Montana smartly places limits on political contributions to judges to help ensure state courts remain impartial.

All of this is turned upside down when political parties become involved. It's also turned upside down when individuals or out-of-state corporations or out-of-state interests are allowed to write unfettered checks and contribute huge amounts of money. In other states, like Texas, for instance, holy Moses, there is no limit. And as a result, people are swayed by political contributions. Political parties have no business being in this process.

Lucas makes a comparison to the State of Texas to illustrate how unlimited political contributions undermine judicial impartiality. He also makes clear that this problem extends to other states as well. This comparison is effective. The research finds it is important to avoid too many comparisons with other states, which can become confusing for our audience (see page 28 for more on this).

Wisconsin



The following are findings and nuances specific to research conducted among our audience in Wisconsin. This is meant to build upon the overarching set of findings and messaging recommendations presented earlier in the guide.

Additional Findings and Nuances

Higher Level of Cynicism and Skepticism:

Focus group discussions reveal a significant level of skepticism about achieving judicial impartiality. In the survey, respondents also display pessimism, tied to concerns about economic issues like inflation and educational costs. Overall, this could reinforce doubts among our audience in Wisconsin about the viability of state court reforms.

“I simply trust the strength of the U.S. Constitution more than I trust in the Wisconsin Constitution. I am unsure just what the Wisconsin government is adding and or/banning at the moment.”

– White Woman, Conservative, WisconsinMontana

Recognition of Polarization and Political Influence:

Survey respondents in Wisconsin are acutely aware of the political polarization surrounding their courts, driven by massive spending on judicial campaign ads. This can add to their sense of cynicism.

Increased Support for Judicial Independence: Wisconsin voters show increased support for state courts operating independently from the governor and legislature, with this belief strengthening after exposure to messages in support of judicial integrity.

Significant Concern for the Safety of Judges. Two-thirds (36%) of Wisconsin voters say they are extremely, very, or somewhat concerned about state court judges being threatened or harassed. As the GOP legislature in Wisconsin continues to attack the new State Supreme Court and harass specific judges, this concern is likely to remain top of mind for our audience.

Connecting the Dots Between the Courts and Relevant Issues Is Very Effective. Connecting the dots for our audience to show the role of the courts in deciding important issues of the day—from redistricting to access to abortion care—is powerful. A gerrymandering message tested in the online survey resonates strongly with our audience (75% find it compelling). There were also very high positives for the message: “Our constitution protects the right to fair democracy and fair elections.” With access to abortion care continuing to be a significant issue in Wisconsin, messaging highlighting the impact the new majority on the state court may have to reverse anti-democratic actions may be compelling for our audience.

○ **Highlighting the Influence of Money and Special Interests Is Effective.** We recommend continuing to hammer money and special interests, which we know will flood Wisconsin again in 2025. The following *Moneyed Special Interests* message resonates strongly, with 71 percent of Wisconsin voters finding it compelling.



Governors and state legislators are often influenced by powerful special interests, whereas the independence of state courts offers judges more protection. That's why special interests are working to weaken the independence of state courts so they can use their money and resources to get what they want at the expense of everyday people. We need to protect the integrity of state courts in order to push back against special interests.

○ **Top Supportive Messages for Wisconsinites Are Same As Top Messages for Voters Nationwide:**

Wisconsin voters align closely with U.S. voters generally regarding supportive messaging, with “Safety” being the most compelling message, followed by “Check” and “Design.”



[SAFETY] *Everyone should be able to feel safe when they are doing their job. No one should have to worry about being pressured to do something they think is wrong, or worse, threatened with physical violence—and this includes judges. According to the U.S. Marshals Service, threats to judges and other court officials increased 400% from 2015 to 2021. How can we expect a judge to make a fair ruling if they're worried about being attacked going to the grocery store or picking up their kids from school? We need to protect the integrity of our judicial system, and that includes keeping judges and court officials safe from harm.*

Eighty percent (80%) of Wisconsin voters find the safety message compelling (49% extremely compelling).



[CHECKS ON POWER] *Independent state courts play a critical role in stopping state politicians and unelected bureaucrats from abusing their power and taking away our rights, property, and freedoms. It is our responsibility as Wisconsin residents to call out politicians when they are taking steps to undermine the authority of state courts—especially as a way to grab more power for themselves.*

Seventy-five percent (75%) of Wisconsin voters find the checks on power message compelling (44% extremely compelling).



[DESIGN] *Just like America's Founders, the people who wrote each state's constitution intentionally made state courts separate from the executive and legislative branches because they believed only an independent judiciary could prevent the other branches from overstepping the authority given to them. When other state officials, like the governor or state legislators, try to interfere with the independence of state courts, they're undermining the original design of our democracy, threatening our liberties, and fundamentally violating a core principle of America.*

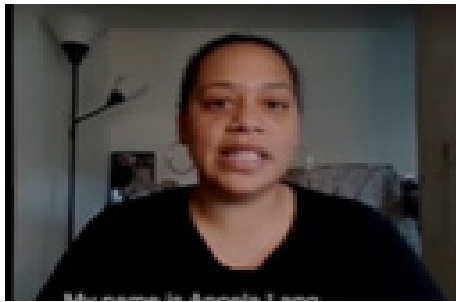
Seventy-four percent (74%) of Wisconsin voters find the design message compelling (43% extremely compelling).



Messaging Recommendations in Action: Deconstructed Messenger Video

The following is the transcript of an effective Wisconsin video messenger that was tested in the research. Along the side of the transcript, you will find a deconstruction of the content, noting various insights and messaging recommendations in action.

Messenger Video: Angela Lang



My name is Angela Lang, and I am the executive director of BLOC: Black Leaders Organizing for Communities, which is a civic engagement organization with the goal of making sure that our community have resources to

actually thrive and not just feel like we're surviving day to day. I'm a lifelong Milwaukeean. The community and the neighborhood I grew up in were incredibly diverse. Black, Brown, Hmong folks, and a lot of working-class folks trying to provide for their family. So, part of my personal experience, understanding that there is serious segregation and disparities in our cities, and I want to do my part to help kind of balance that out and make sure that all communities are thriving.

Sometimes folks, including myself, forget, is that there are basic guiding principles in the Wisconsin Constitution about having quality education and representation in terms of redistricting. Our Wisconsin Constitution has an explicit right to education and making sure that the rights to education are equitable for all students. Our Constitution protects the right to a fair democracy and fair elections. I think that is something that gets lost when we're only talking on a case-by-case basis and not necessarily the bigger picture of these values that are in the Constitution. Whether they're upheld on a regular basis, I think, can be up to debate depending on the issue.

Angela begins by describing her professional background as a community leader and organizer. She also highlights the diversity of the Milwaukee neighborhood that raised her. These details help to build connections and identification among our audience. They also establish credibility to speak on racial and income disparities.

Angela effectively ties state courts to the values and protections embedded in the Wisconsin state constitution—a tactic that is especially effective in engaging more conservative segments of our audience.

Milwaukee is home to one of the most incarcerated zip codes in the country. It's also important for us to make sure we're paying attention to our local judges that are elected. Are there disparities in how they're sentencing? I was observing judges on the bench one day, and the defendant at the time was a young white man who was on his seventh robbery. The judge showed sympathy and talked about how he had a traumatic childhood and how there should be leniency. I appreciated that because I think everyone deserves that. I went to the judge next door, and it was quite the opposite. It was a young Black kid, maybe just 18, and he was there because he stole candy and a frozen pizza, and they gave him a couple years for that theft. He was not afforded that same opportunity about trauma and what led him to that situation.

It's examples like this that I think is so important that we continue to pay attention. So, when they're up for election again, people can make an informed decision. If we only pay attention when we ourselves or a loved one is going before the judge, it's too late. We want to make sure that we're electing people, so, if somebody goes in front of them, they know that they are getting a fair shot, they are heard, and that the law is applied accordingly.

I think right now there is an opportunity for the state Supreme Court to dig deep in upholding the Wisconsin values that are in the constitution, and that is something I think is important now more than ever.

Angela discusses an important issue that affects court systems around the country: racial disparity in sentencing.

On one hand, this is a very effective piece of storytelling that illustrates the high stakes involved in judicial selection and the harm that can occur if a judge lacks empathy and experiences with communities of color.

On the other hand, this information can begin to erode our audience's overall trust in state courts and state judges.

Connecting the dots from her story about sentencing disparities to the importance of selecting judges with empathy toward communities that have been historically marginalized is helpful—and effective—for our audience.

Angela concludes by reaffirming the importance of upholding the state's values.





Looking Forward

We hope you find value in the research insights and messaging recommendations in this guide.

As we work to implement these recommendations and help to shape public narratives around judicial integrity, we find both challenges and opportunities ahead.

While our audience shows affinity—and even pride—toward the federal and their own state constitution, they also readily call out the gap they see existing between the guarantees and promises of these documents and the reality of what is being achieved in their state. This includes the reality of state courts upholding the guarantees in state constitutions. Further research is needed to explore this disparity and to test and refine messaging that can build support for judicial integrity even as people feel skeptical about the efficacy of their courts and constitution.

As we look toward the future, developing state-specific approaches to address state-specific needs and political environments will be an important part of this work. We invite our partners and colleagues to join us in this exploration and efforts to shift the narrative around our state courts and constitutions.

Appendices

Why We Use Certain Words and Phrases in This Guide

In this guide, the terms used to describe people’s race or ethnicity reflect the terms that focus group participants and survey respondents, themselves, use to describe their race and/or ethnicity. How people choose to describe their race or ethnicity can vary from individual to individual based on many factors, such as geography, age, education, political perspective, country of origin, history, and culture, as well as social influences from friends, peers, and family. These terms are often different from movement terminology or language that advocates may sometimes use.

For example, while many progressive organizations use the gender-neutral “Latinx” to describe people’s racial or ethnic identity, strong majorities of participants in surveys and focus groups asking about self-description do not—preferring Hispanic, Latino, or Latina. Consistent with what the research team heard in focus group discussions and in surveys, a [2022 Pew Research survey](#) of 3,030 U.S. Hispanic adults found that 53 percent of Hispanics prefer to describe themselves as “Hispanic,” 26 percent prefer “Latino,” two percent prefer “Latinx,” and 18 percent have no preference.

You will also note that we choose to capitalize Black as a racial identity, while not doing so for white. This may conflict with some style guides that you are familiar with, which suggest the use of a lowercase alternative. Language, like all living things, evolves. These decisions are reflected in a post from the Columbia Journalism Review, “[Black and white: why capitalization matters](#).” In their post, CJR quotes Luke Visconti of DiversityInc: “[M]any Black people describe themselves simply as being ‘Black,’ and this reality is reflected in a body of literature, music, and academic study.” As you develop content that includes people, families, and communities, consider making it a practice to ask those who are featured how they prefer to describe their race or ethnicity, legal status, etc., and then reflect that preference in communications.

To read and learn more about using inclusive language, check out this helpful resource: [Writing about Race, Ethnicity, Social Class and Disability](#). While it may not answer every question, it offers good guidance—including this important piece of wisdom: “Language is fluid. As a writer, understand and take responsibility for the language choices you make.” [The Conscious Style Guide](#) also includes a variety of news stories and blog posts with people weighing in with their opinions about how to communicate thoughtfully about racial and ethnic identity. Another resource is the [Diversity Style Guide](#), a project of the Center for Integration and Improvement of Journalism.

Detailed Methodology

Alaska Mindset Research

- Four-day online asynchronous focus group among 24 Alaska registered voters conducted March 6-17, 2024. Participants include:
 - 14 women, 10 men
 - 19 white participants, 2 Alaska Native or Native American participants, 1 mixed Alaska Native/Black participant, 1 Hispanic participant, 1 API participant
 - 11 moderates, 8 conservatives, 5 liberals
 - 14 independents, 5 Republicans, 5 Democrats*
 - Age: 5 ages 25-39, 4 ages 40-49, 7 ages 50-59, 7 ages 60-69, 1 ages 70+
 - 15 from the 3rd Judicial District, 7 from the 4th Judicial District, 2 from the 1st Judicial District

National Mindset Research

- Four-day online asynchronous focus group among 23 registered voters conducted March 12-25, 2024. Participants include:
 - 10 women, 13 men
 - 9 white participants, 5 Black participants, 4 Hispanic participants, 2 API participants, 1 Native American participant, 2 mixed participants
 - 8 moderates, 7 conservatives, 8 liberals
 - 8 independents, 8 Republicans, 7 Democrats*
 - Age: 4 ages 18-29, 11 ages 30-49, 5 ages 50-59, 3 ages 60+
 - 5 from Montana, 6 from North Carolina, 3 from Ohio, 4 from Pennsylvania, 5 from Wisconsin
- Four synchronous focus groups (via Zoom) among 13 Montana and 15 Wisconsin registered voters conducted April 24-25, 2024. The focus groups consisted of:
 - White Montana conservatives and moderates
 - White and Native American/Mixed Montana liberals and moderates
 - White Wisconsin conservatives and moderates
 - White and Black Wisconsin liberals and moderates
 - Focus-group moderators are of the same race and ethnicity as participants to help ensure cultural competency and reduce social-desirability bias.
 - Participants include:
 - Montana
 - 6 men, 7 women
 - 11 white participants, 1 Native American participant, 1 White/Native American participants
 - 4 somewhat conservatives, 3 somewhat liberals, 6 moderates
 - 4 Republicans, 3 Democrats, 5 independents, 1 undeclared*
 - Wisconsin
 - 7 men, 8 women
 - 12 white participants, 3 Black participants
 - 4 somewhat conservatives, 4 somewhat liberals, 7 moderates
 - 3 Republicans, 5 Democrats, 7 independents*

*Note: party throughout this guide refers to party identification *based on voters' self-report*, which may differ from how they are officially registered.

Alaska Dial Test Survey Research

- ▶ Online dial test survey conducted June 24-July 11, 2024 among n=457 Alaska registered voters. Margin of error is +/- 4.5 percentage points; larger for subgroups.
- ▶ The survey sample includes:
 - 52% women, 47% men, 1% identify differently
 - 40% conservatives, 24% liberals, 36% moderates
 - 24% Republicans, 15% Democrats, 61% non-partisan/independents/other*
 - 25% 18-34 years old, 42% 35-49 years old, 23% 50-64 years old, 11% 65 or older
 - 74% white voters, 13% Alaska Native voters, 3% Black voters, 1% Hispanic voters, 5% API voters, 4% other voters
- ▶ The data are weighted slightly to ensure the sample is representative of registered voters in Alaska.

National Dial Test Survey Research

- ▶ Online dial test survey conducted nationwide July 19-28, 2024 among n=1,866 registered voters, with oversamples for Black, Hispanic, API, Wisconsin, and Montana voters. Margin of error is +/- 3.2 percentage points; larger for subgroups.
- ▶ The survey sample includes:
 - n=970 women, n=877 men, n=19 voters who identify differently
 - n=620 conservatives, n=513 liberals, n=676 moderates
 - n=641 Republicans, n=697 Democrats, n=529 non-partisan/independents/other*
 - n=369 ages 18-34, n=480 ages 35-49, n=536 ages 50-64, n=480 ages 65 or older
 - n=1,149 white voters, n=222 Black voters, n=195 Hispanic voters, n=200 API voters, n=100 other ethnicity voters
 - n=306 Montana voters, n=310 Wisconsin voters
- ▶ The data are weighted slightly to ensure the sample is representative of registered voters.

*Note: party throughout this guide refers to party identification *based on voters' self-report*, which may differ from how they are officially registered.





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