Distrust of institutions is increasing, traditional media are losing prominence, and people are retreating into “echo chambers” reinforcing existing beliefs. Courts must adopt modern communication strategies to tell their own stories through focused, consistent messages that connect their important work with the values of the people they serve.

Historically, court communication consisted almost entirely of issuing decisions, geared toward a legal audience, explaining how a court resolved a dispute brought before it. Over time, however, courts began to learn that while “the opinion speaks for itself,” the public does not necessarily understand the legal language used. And courts learned people do not trust what they do not understand.

In the absence of information from courts themselves, the public turned elsewhere for understanding—in many cases, entertainment shows such as *Law and Order*, *The Good Wife*, and the wide array of “reality judge” shows. But it does not help courts if the public believes all criminal cases will include compelling DNA analysis or expect all attorneys to finish their closing arguments in 60 seconds or less.

To help fill that information void and dispel myths, many courts have made their work more accessible to the public through plain-language summaries of pending cases and decisions,
websites, cameras in courtrooms, and events. Courts and judges increasingly are harnessing the power of social media. Some, like Texas Supreme Court Justice Don Willett, have developed huge Twitter followings (@JusticeWillett; available at https://twitter.com/justicewillett). More judges and court staff are engaging with students and adults alike through civic education programs designed to foster understanding of the importance of the third branch of government. Increasingly, courts have hired public information officers to manage their communications and outreach efforts. One longtime court leader, Supreme Court of Missouri Clerk Thomas F. Simon, often said you cannot blame the public for getting things wrong if you are doing nothing to help them get it right.

Efforts to help people better understand their courts appear to be working. A September 2016 Gallup poll found those expressing a “great deal” or “fair amount” of trust and confidence in the judicial branch had recovered to 61 percent (Saad, 2016). The National Center for State Courts’ most recent State of State Courts report offered even better news—74 percent of voters surveyed expressed confidence in their state courts. A large majority said they believe their state courts protect individual and civil rights; treat people with dignity and respect; and provide procedural fairness, regardless of outcome.

**Communication Challenges**

While it is important for courts to communicate about their day-to-day work, it is equally important for people to understand the challenges courts face. Ideally, courts not only want the public to understand the important work they do, but also want the public’s support when courts are facing challenges or crises. This requires a different level of effort: As communications experts long have preached, it is easy to impart knowledge, it is more difficult to impact attitudes, and it is an even harder task to change behavior or move people to action.

This is even more difficult now, as the ways people obtain information and their attitudes about their government institutions transform. The 2017 Edelman Trust Barometer, which measures global trust in institutions including government, identified a marked shift from trust in established authority to trust in “average” people. It similarly found a fundamental shift from the “old model” of elites managing institutions to do things “for the people” to a “new model” of institutions working “with the people.” Among those who say institutional systems are failing, about two-thirds believe having open and transparent practices and listening to customers can help build trust.

The barometer also measured shifts in what communication channels people trust. It found people are more likely to turn to search engines than human editors to find information and are nearly four times more likely to ignore information supporting a position they do not already believe. They prefer communication from spontaneous, blunt, and outspoken speakers drawing from personal experience over rehearsed, diplomatic, and polite speakers drawing from data. They are far more likely to believe leaked information than an institutional news release. They find most credible communication from “a person like yourself” (tied with technical or academic experts), followed by employees and activists.

**Communication Solutions**

Findings like these can help courts develop new ways to maintain credibility as trustworthy sources of information in a society that is increasingly distrustful of institutions. Such findings also can help courts better understand their audiences and build messages tied into the public’s existing sense of personal and community values. As in sports, the best defense is a good offense—the more citizens appreciate the value of fair and impartial courts in their lives, the more understanding and supportive they will be when courts face challenges or crises.

Courts also can learn communications lessons from the business sector, including the importance of accepting responsibility for a problem, taking tangible steps to fix problems, and apologizing.
for any harm a problem has caused. Such a response might make litigation counsel cringe, but even in our litigious society, sometimes all people want is a meaningful apology and acceptance of wrongdoing. Embracing private-sector management models also can be helpful. By breaking down natural silos, courts can build collaborative, multidisciplinary teams of court leaders—including judges, administrators, legal counsel, and public information officers—dedicated to consistent, effective communication.

These collaborative teams must have diversity of experience, as well as the authority to respond swiftly when challenges arise. Courts must strive to produce truly rapid responses, not micromanaged messages that take days or even weeks to develop. By then, the information cycle will have moved on, and public perceptions already will be shaped without the benefit of the court’s message. As any judge who has tried a high-profile case can attest, public perceptions begin to be shaped as soon as news of a case breaks. Neither the media nor the public will heed the judge’s instructions to wait until all evidence has been presented and all arguments have been made to begin forming their opinions. Instead, without a concerted strategy by defendants, the first to the courthouse typically claimed the advantage in perception, as media tend to shape their stories based on the first allegations made in a case, typically by prosecutors or plaintiffs.

One state that has institutionalized the importance of court communications is Florida, which last year finished a lengthy strategic planning process to develop a communication plan for its entire judicial branch (Supreme Court of Florida, 2016). As Florida Chief Justice Jorge Labarga explained, “It is important that communications by all courts be consistent not only with its message but also in the manner information is communicated…. This consistency is designed to improve understanding and reduce misperceptions about the judicial system, which often stem from a lack of necessary information” (Labarga, Richardson, and Knox, 2016).

A unified approach to communications can work even in a state without a unified court system. For example, the Supreme Court of Ohio has partnered with Ohio Government Telecommunications to run a multimedia news service called Court News Ohio (http://www.courtnewsohio.gov/). An authoritative source for information about cases, judges, and other news by and about the Ohio judicial branch, this service is designed to reach not only the media but also the public.

Communications for courts must be designed for both long- and short-term effectiveness. Day to day, courts can develop their opportunity to become active storytellers and not rely on traditional media to tell their stories for them. Courts must ensure their key facts and messages are used consistently in all communications with the media, legislators, community leaders, and the public. In today’s increasingly technological society, courts also should hone those messages into easily understood 140-character bites, photographs, and videos suitable for dissemination across traditional and social media alike. Courts must communicate as much with their internal audiences as their external audiences. With appropriate nurturing, judges and staff can become effective grassroots messengers to help explain the courts to their friends and throughout their communities. Courts also must keep their community partners in the loop—retired judges and staff, attorneys, professors, business or religious leaders, and anyone else to whom the public already gravitates to shape local opinions. This groundwork becomes a springboard from which a court can respond when challenges arise. It is important to communicate quickly, even if all the answers are not yet known. When a court is facing a developing situation or a problem requiring deliberative
study to craft long-term solutions, communications can be the key in managing the public’s expectations, both in explaining the process and in consistently making updates as appropriate.

**Case Studies in Effective Court Communications**

The nation’s heartland offers examples. After losing three justices in a retention battle over a social issue, Iowa quite literally took its supreme court on the road, with justices hearing cases and meeting with the public in towns throughout the state. Now, in the face of a significant state budget shortfall, the Iowa Judicial Branch is speaking directly to the people to explain how the courts’ budget works and the steps the courts are taking to reduce spending while minimizing disruption of services to Iowans (Iowa Judicial Branch, 2017).

In Kansas, years of clashes between the legislative and judicial branches, largely over funding for the state’s public schools (Caplan, 2016), came to a head last year during a concerted effort to oust four of the high court’s justices on November’s ballot. As one newspaper headline explained, “Kansas Supreme Court justices face anger ahead of retention elections later this year” (Shorman, 2016). As the election drew closer, another newspaper’s editorial urged voters to “reject ugly political attacks” and retain the justices (Editorial Board, *Kansas City Star*, 2016). The justices took to the road, holding court in schools in the state and speaking with the public. They also appeared on local television talk shows to discuss their work, and the chief justice welcomed an in-depth feature story in which he spoke candidly about the challenges his branch had been facing (Novascone, 2016). Four former governors came to the justices’ defense (Eagle Editorial Board, 2016). And the response? In November 2016, all the justices were retained (Zeff, 2016).

Across the border in Missouri, the judiciary in rapid succession faced two critical reports by the U.S. Department of Justice (DOJ), one about a county’s juvenile system and the other about the municipal division in Ferguson, which had found itself in the nation’s spotlight after a young black man was shot to death by a white police officer.

Even before the DOJ released its Ferguson report, the Supreme Court of Missouri committed itself to restoring trust in all the state’s municipal divisions and began taking steps to regain public confidence. While media and public attention was laser-focused on St. Louis County’s 80-plus municipal divisions, the court recognized that any solutions devised would affect more than 600 municipal divisions statewide. It also understood that reviewing municipal divisions statewide and devising meaningful statewide improvements could not—and **would** not—be done in haste.

Days after the DOJ report was released, an appellate judge with vast municipal experience was assigned to hear all of Ferguson’s cases and was authorized to implement needed reforms to its policies and procedures. Local radio called the court’s action “decisive and unexpected” and said experts believed it had created momentum toward major reform (Freivogel, 2015). Local and national media observed the assigned judge hold his first docket in Ferguson. As one news report noted, it “began with a message: changes are underway” (“New Judge Holds First Ferguson Municipal Court Session,” 2015). Frank and plainspoken, the judge demonstrated a properly functioning municipal docket, treating all defendants fairly and courteously and making sure they understood their rights. In so doing, he began to change that court’s culture. The response largely was positive. One defendant told the media the judge stuck to the law, was like an “old professor,” and seemed friendly and down-to-earth (“New Judge Sits Behind Ferguson Bench,” 2015). A national headline proclaimed, “State Judge Ushers in New Era at Ferguson Municipal Court” (Kesling, 2015).
The Supreme Court of Missouri then began the arduous process of developing long-term improvements. It appointed a work group whose members performed yeoman’s work, turning recommendations for reform into tangible change. It held forums to hear the public’s concerns and ideas. It also consistently communicated—with the media, the legal community, and the public—that there was a process in place, and the process would take longer than some might hope, but the process nonetheless was important to making meaningful change. The chief justice also used her annual addresses to the legislature and the bar to provide updates about the changes put in place, what work remained to be done, and where the courts needed assistance from the public and legislature.

Like her sister states, Missouri’s courts continually strive to improve. As Missouri Chief Justice Patricia Breckenridge told the state’s legislature in her 2017 state of the judiciary address, “Do not view . . . calls for action as a condemnation of our judicial system. Our citizens can be proud of our courts, where they go to resolve their disputes peaceably and where their constitutional rights are protected. Day in and day out, in the courtrooms in your communities, hundreds of thousands of cases are adjudicated without fanfare. We, more than anyone, want our courts to live up to their responsibilities to properly administer justice” (Breckenridge, 2017).

Throughout her two-year term as chief justice, Breckenridge stressed key messages about the courts. She demonstrated that experts within the judicial and legal communities will take ownership of problems, work hard to find practical solutions that make Missouri’s courts better for everyone, and stand together in ensuring the culture of our profession is one that earns the public’s trust and confidence (Breckenridge, 2016).

By building on positive messages like these about the important work they do, courts throughout the country can become more adept at telling their own stories and can help shape national public discourse for years to come.

References


