

ENGAGING AND EDUCATING VOTERS IN A CROWDED WORLD











IAALS—Institute for the Advancement of the American Legal System

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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a "think tank" that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative solutions to problems in our system in collaboration with the best minds in the country. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

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Quality Judges is an initiative of IAALS dedicated to advancing empirically informed models for choosing, evaluating, and retaining judges that preserve impartiality and accountability. Through comprehensive analysis of existing practices and the collaborative development of recommended models, the Quality Judges Initiative empowers, encourages, and enables continuous improvement in processes for choosing, evaluating, and retaining judges.

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1. DEFINING THE PROBLEM

Solving any communications challenge starts with an honest assessment of the current state of affairs. This process can and should include review of all available research as well as interviews with those most closely aligned with the issue. When it comes to judicial retention elections, the landscape presents some deeply rooted problems that will be hard—but not impossible—to solve.

While each state has its own unique opportunities and hurdles around these elections, some fundamental threads emerged as bedrock problems that can be found across states and across voters on these ballot questions. At their highest level, these issues speak to voting culture in our country and strike at key elements of each voter's relationship to his or her own civic duty. These kinds of complex cultural and behavioral issues won't be solved solely through a communications lens. But without better, more focused, more engaging, and more consistent communications efforts, they won't be solved at all.

The most important problem-solving efforts require accurately framing the problem before setting out toward a solution. When looking at judicial retention elections, here's the heart of the matter:

1. Voters don't approach voting for judges with the same civic mindset they apply to the rest of their ballot.

Unlike candidate or issue ballot questions, voters find it acceptable to vote without information by simply guessing or voting as a block for no reason. They give little, if any, priority to voting on judges. In some states, voter rolloff for judges is a real issue.

2. Voters don't understand how they should evaluate judges.

That means in large numbers they don't believe non-ideological or non-political information meets their needs for election decision making. Why would they? Everything else on the ballot asks them to apply a party affiliation or ideological framework.

3. Voters can't find evaluation information or don't understand it when they do find it.

Voters aren't aware of or can't understand the information provided about judicial performance during retention elections. In many cases, the process that produces the evaluation, of which voters are unaware, also produces a dense report on each judge which is hard to understand.

4. Voters don't know and therefore don't really trust evaluation entities.

Official entities that provide information to voters in an effort to inform and encourage voting lack the profile and/or relationship with voters to substantially influence traditional voting patterns and create greater voter participation and more informed participation.

2. DEFINING THE GOALS

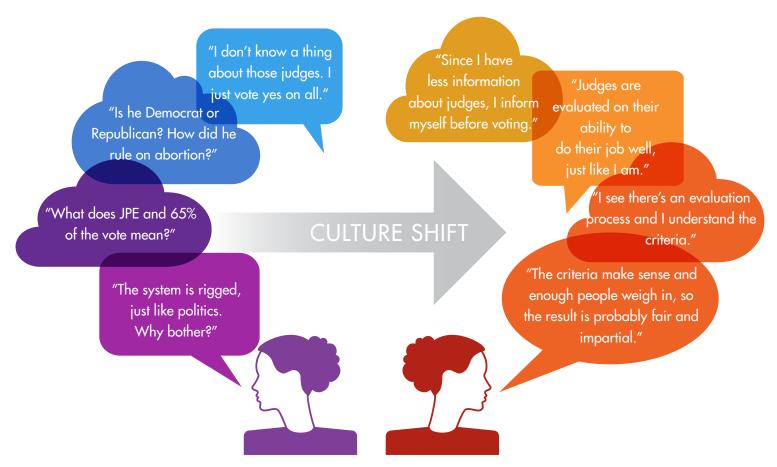
If those are the problems, then the overarching solution is a change in behavior inspired by a change in culture, a change in the way voters understand their civic duty and their ballot. In today's public relations-speak, these kinds of challenges require "social marketing" or "public will building." What those terms mean is simply the application of traditional marketing techniques to an effort to create behavioral or cultural change for the public good. Over the last decades, we have seen these kinds of efforts applied to everything from water conservation to preventative health care to battling big tobacco.

These kinds of efforts are multi-year commitments to ongoing conversation and education with the community of voters who need to be reached—not simply biannual attempts to attract attention, typically during a period when multiple other parties are doing the same.

Specific tactics will look different. Some states have financial resources to devote to the effort. Others must operate on extremely limited budgets. Some states operate within a flexible system. Others have much of their work proscribed in statute. Some states' commissions operate in a relatively politically neutral space. Others experience sporadic political controversy, while some have consistent political forces aligned against them.

Specific metrics for each state will also likely look different. Some will want to address high numbers of voters who "roll off" the ballot without voting on judges at all. Others don't struggle with that, but do struggle with the quality of voting.

Whatever the specific metrics a state decides to employ, from a "public will building" standpoint, the goals are the same:



If goals are focused on this kind of high-level shift, then real public will has moved and real and sustainable culture change is achieved. Focused, consistent, and engaging communications are essential tools in creating this change and ensuring that it sticks.

3. GETTING THE MESSAGE RIGHT

Let's face it. Most issue communications efforts spend too much valuable time, resources, and space talking to individuals who already understand the issue. The judicial review community is no exception. Much of the externally facing information found across websites and other explanatory tools is text heavy, process driven, and written in issue speak that is largely impenetrable to people outside the community. These vehicles spend their precious space organizing background information for individuals who are already part of the process and often obscure key information that could help others better understand the issue.

Think for a moment about what the majority of information on these websites and voter's guides looks like to the average voter who visits the information infrequently and doesn't have command of the various courts and oversight bodies. It must be something akin to looking at the IKEA directions for putting together a dresser. "This looks like something I might have seen before and like something I probably should understand, but I can't really follow it or make anything out of it." In large part, this kind of response happens when not enough time has been invested in figuring out the right messages to help your audience—in this case voters—feel compelled to act and then understand the information that will allow them to act from an educated place.

So let's start with some high-level messages that can be used to frame the issue and the call to action for voters. The most important rule to remember when developing messaging like this is simple.

Good messaging is clear, concise, and compelling. It connects people to an issue through their existing, closely held values, rather than trying to convince them they have different values.

What should we be saying to voters about the judicial performance evaluation system and judicial retention elections that is clear, concise, compelling, and tied to our values as Americans? Really just a few key concepts.

Your Rights:

- You have a right to decide which of our state's judges stay at their jobs and which don't, just as you do with officials in all other branches of government.
- By exercising that right with an informed vote, you ensure that our proud tradition of fair and impartial courts continues.

Your Civic Duty:

- To keep our courts fair and free, we all have a duty to vote for judges we can trust to arrive at unbiased decisions based on an honest review of the facts.
- The rights of all of us are at stake if our courts don't work. Your vote for judges who uphold the highest standards of fairness and integrity ensures our courts stay healthy.

The Process:

- In our work, we all deserve to be judged on our skills and performance. Judges are no different. So our state has developed a process to fairly and accurately evaluate each judge's work and report that back to you. Then you can make an informed decision when you vote.
- Judicial evaluations collect input from everyone who has contact with a judge, including jurors, witnesses, court staff, and lawyers. This input is then used to determine key aspects of each judge's performance, including whether they can apply the law fairly and whether they can manage a courtroom well.

The most fundamental change that needs to be made to improve overall communications with voters is a shift in the way data collected through the evaluation process is presented. Voluminous in nature and dense in substance, the data itself can be the largest reason voters fail to inform themselves about each judge's evaluation as well as fail to vote. We must make changes that don't place a hurdle to participation at the earliest levels.

Because all states use digital presentation of their evaluation materials on their websites, this report focuses on that presentation. In reality, if the graphic representation of the data on the website is done well, it can easily be transferred to the voter guides many states publish if that flexibility is available through the process. Before we begin thinking graphically, let's take a moment to consider the data and information we are trying to convey in its most simple form. We need to answer basic questions a voter will have when arriving on the site.

- 1. Why am I here? What is the call to action?
- 2. How does the evaluation process work and why should I trust it?
- 3. Which judges will I be voting on?
- 4. What did the evaluation process have to say about those judges?

This layering of information, which walks the voter simply through using the information, is possible regardless of the limitations of state website functionality or resources that can be devoted to coding issues or graphic design. While every state's website houses much more about the judicial evaluation process for individuals involved, as well as other roles of the offices, each site's prime real estate should be given to answering these questions. Even in off-election cycles, these questions should be answered prominently so that opportunities for educating the public aren't missed.

Even on the most technologically challenged web platform, the following can help voters understand what they should do and how they can do it efficiently and with confidence.



Official Voting Information for Judges

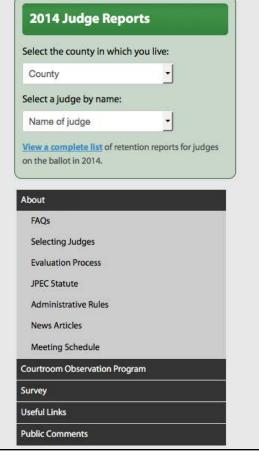
In our state, you have the right to decide which of our state's judges stay at their jobs and which don't, just as you do with officials in all other branches of government. Use the information below to learn about the judges you will be voting on and then cast your ballot.

How are judges evaluated and why should I trust the results? In our work, we all deserve to be judged on our skills and performance. Judges are no different. So our state has developed a process to fairly and accurately evaluate each judge's work and report that back to you. Judicial evaluations collect input from everyone who has contact with a judge, including jurors, witnesses, court staff and lawyers. This input is then used to determine key aspects of each judge's performance, including whether they can apply the law fairly and whether they can manage a courtroom well.

Which judges will I be voting on?

Select your county to see a list of all judges who will appear on your ballot and their evaluations.

Learn More >



Where technologically possible, the link to each voter's list of judges needs to be as intuitive and simple as possible. New Mexico has a nice feature that allows voters to enter their zip code and receive a list of only the judges that voter will encounter on the ballot. Missouri, Utah, and Colorado—for example—use a "select your county" option that also sorts the judges into groups as they will appear on ballots. Some states, like New Mexico, go an additional step of allowing visitors to print a list of their judges as they will appear on the ballot for those who will be voting in ballot booths on Election Day. This function could be improved by allowing visitors to easily email themselves that information so they can carry it into a voting booth on their smartphones or quickly access it when they are completing their ballot at home.

An additional key data display issue is how an individual judge's evaluation materials are shown to voters. In this respect, states run a broad spectrum. The models run the gamut from showing voters a "Retain" or "Do Not Retain" recommendation alone unless they click for the full report to requiring voters to wade through dense multi-page reports. While many states have requirements for what data is reported to voters, it is important to consider how statutory requirements, where they aren't conducive to voter understanding, might be overlaid with more user-friendly information.

To decide how this information should be presented, it is first important to consider the communications goals that should be met for this particular piece. There are two.

- 1. Communicate the overarching recommendation for the judge to be retained or not retained.
- 2. Communicate the categories of evaluation for each judge and each judge's general performance in that category.

If one of the hurdles is information overload for voters when it comes to evaluation material, an equal hurdle is misunderstanding the criteria on which voters should base their judicial decision making. Communications have to strike a reasonable balance between the two. Consider how one state's evaluation material could be used to strike that balance while also providing voters with an "at a glance" experience of the information.

If this is the data in its full report form:

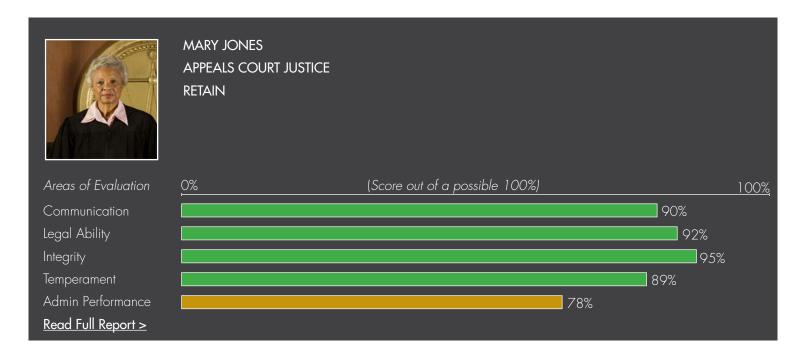
Appeals Court Justice Mary Jones: Retain

	Attorney Surveys	Peer Judge Surveys	Superior Court Judge Surveys
2011	Distributed: 420	Distributed: 4	Distributed: 30
2014	Returned: 139	Returned: 4	Returned: 7
	Detailed Report	Detailed Report	Detailed Report
	Score (See Footnote)	Score (See Footnote)	Score (See Footnote)
Communication	90%	100%	n/a
Legal Ability	92%	100%	100%
Integrity	95%	100%	100%
Temperament	89%	100%	n/a
Admin Performance	78%	100%	n/a

It could be changed to:



Or:



Or a simpler layout without color or graphics:



MARY JONES, APPEALS COURT JUSTICE

Recommendation: Retain
Communication: Excellent
Legal Ability: Excellent
Integrity: Excellent
Temperament: Excellent
Admin Performance: Adequate

Read Full Report >

These kinds of formats allow voters to absorb the information in a way that makes sense to them, while also getting all the information we need them to see at a glance. All information can and should be linked to the full report so that those who want to dig deeper still have avenues to do so.

5. EFFECTIVE DIGITAL ADVERTISING & SOCIAL MEDIA

The unfortunate reality is that social media, a typically economical way for entities and individuals to boost their public profile, is simply not the right vehicle for judicial performance evaluations. While many states are trying to use standard social media platforms like Facebook and Twitter, the reality is that they are likely not worth the effort. In many cases, these platforms require a dynamic two-way conversation to expand viewership, and in large part, those conversations are typically difficult for judicial staffers to carry out, either because of the labor-intensive nature of the platforms or because many of the conversations started there quickly move outside the appropriate bounds for response. In order to organically engage people, messages must be increasingly edgy or outlandish to catch attention. Neither of those options are open to judicial offices, who strive to reflect the dignity of the institutions they represent.

Couple this reality with the rather dry information the commissions have to communicate, and it is a recipe for social media failure.

But before giving up on social media altogether or continuing to sink time and effort into platforms that likely won't garner attention, consider targeted digital advertising on social media. It's an economical way to laser focus on specific groups of individuals and deliver them user-specific advertising. This individually served advertising can be as cheap as about \$0.24 a click on Facebook or as expensive as \$1 a click on Google AdWords.

If we return to the highest tactical goal, which is to drive traffic to the website and the evaluations there in order to create more educated voters, then this type of digital platform is tailor made. No Facebook page is needed. The advertising through either Facebook or Google can provide a simple click through to any website. The advertising is dynamic, which means the platforms are continuously evaluating which ads are working with which demographics and adjusting which ads run. And all results are fully and easily measurable so there is no guessing about the specific return on investment.

In order to maximize this investment, if your state is able to make it, it will be important to take a small step outside your typical comfort zone and use slightly edgier language. But regardless of their specific form, all should tie back to the overarching messaging concepts including voting as a right and voting as a means of maintaining our tradition of impartial courts.

Here are a few ideas for Facebook advertising, which appear in a news feed as a sponsored post.



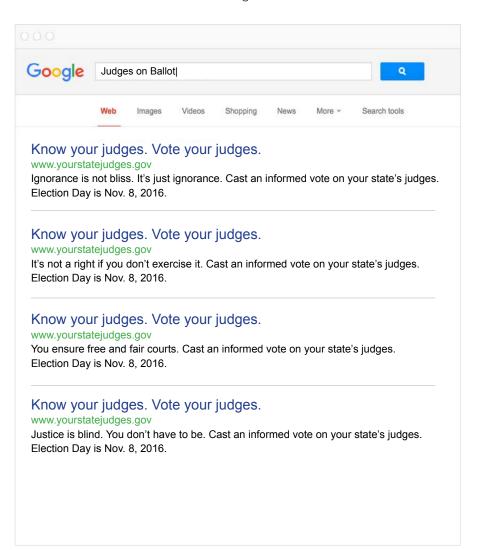


5. EFFECTIVE DIGITAL ADVERTISING & SOCIAL MEDIA





And here are the same ideas as Google AdWords ads:



Google AdWords can help boost your site for search engine results. While many of the judicial evaluation sites, especially those connected to or within state sites, enjoy higher search results because of their official nature, those results aren't often enough to differentiate the judicial evaluation sites from various other state judicial topics like conduct or appointment. By selecting the most likely used search terms for voters, Google AdWords can be used to drive search results that highlight the JPE sites and can be done later in the election cycle to reduce cost.

6. IMPROVING TRADITIONAL OUTREACH

Many states with judicial retention elections have as robust a traditional outreach program as their budgets will allow. With investments in print advertising, radio, billboards, and earned media efforts, coupled with speaking engagements and appearances in voter guides, states are trying to achieve the multiple touches and multi-layering of information necessary to break through the noise of an election cycle.

But these types of outreach are sometimes marked by the text-heavy emphasis from which many judicial evaluation websites suffer. Rather than produce another exhaustive flyer or information-heavy newspaper advertisement, consider using a more typical digital style approach that seeks to drive traffic to the official website.

Two examples of this more minimalist approach would include a simple call to action with a clear prompt for that action. Optimally, these calls to action would direct voters to a simple web address that easily connects to their state's judges.

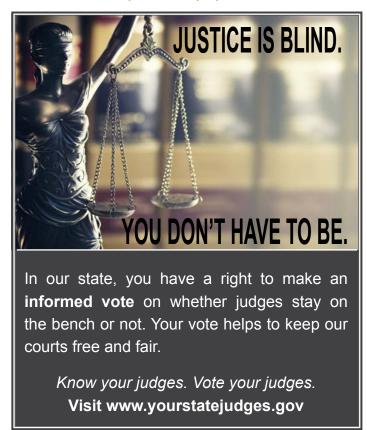
Sample Radio Spots

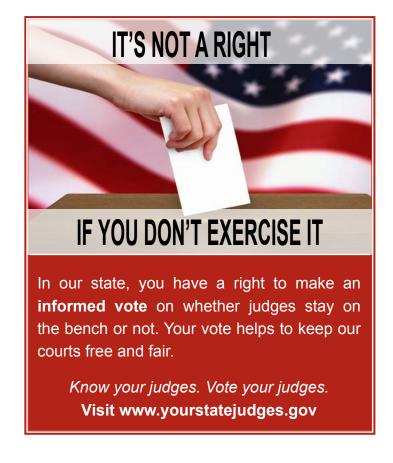
Note: Radio spots should never have more than 80 words.

(30 second spot) This election season, ignorance is not bliss. It's just ignorance. In our state, you have a right to make an informed vote on whether judges stay on the bench or not. Your vote helps to keep our courts free and fair. Know your judges. Vote your judges. Visit www.yourstatejudges.gov

(30 second spot) This election season, you can help keep our courts free and fair. In our state, you have a right to make an informed vote on whether judges stay on the bench or not. Exercise that right. Know your judges. Vote your judges. Visit www.yourstatejudges.gov

Sample Newspaper Ads:





6. IMPROVING TRADITIONAL OUTREACH

As an alternative to purchasing radio spots, consider buying time on Pandora. A cheaper alternative in almost every market, Pandora reaches the largest swath of likely voters (those 40 and over) and does so in a format that has greater impact because a single advertisement runs only four times an hour. Additional options like Pandora are available through Spotify, but these would be more suited for the 18 to 24 demographic.

Adding to Earned Media

You don't have to work with the traditional press often to understand that journalism has gone through some major reconstructions over the last decade. Smaller newsrooms with fewer financial resources have created difficulty in getting the news coverage that many issues deserve. Most states report relatively good success with traditional media sources, especially within the current challenges of the environment. Still, it's worth considering ways to create additional opportunities wherever possible. Here are a few ideas to throw into the mix of your work with traditional journalists.

- 1. Timing, timing: In an election cycle, a lot of opportunity with the media hinges on timing. Consider reaching out to journalists for additional coverage in October when many political journalists have been covering the same candidates and issues for days and weeks on end. Just being a new, election-related topic might be enough to get a few additional stories.
- 2. Your campaign is news: If your state is able to put resources into publicizing judicial evaluations, consider how that, in itself, might be a story. Maybe this is the first time your judges have been featured in Facebook ads. That might be novel enough to be news. Battleground states with especially ugly advertising might be ripe for earned media outreach that features the nonpartisan nature of judicial retention elections. Launching some targeted press outreach at the same time your advertising campaign starts could yield results.
- 3. Use all your milestones as press opportunities: Outside of occasional political flareups around various aspects of judicial retention elections and judicial evaluations, opportunities to discuss elections and judges are sometimes few and far between. So, continuing any kind of conversation with the press about the process and the importance of the outcomes is key. If your state isn't already, consider using every process milestone as a time peg to ask for news coverage. Send out a release or alert to journalists when evaluations are finalized and made public. Consider outreach to journalists when new commissioners are appointed. Don't pass up the opportunity to let reporters know if a panel including judicial retention elections is happening. While not every attempt will generate news coverage, increased attempts boost the likelihood that some milestones will get coverage.
- 4. Create an echo: Given the somewhat diminished reach of traditional media, it's important to consider every option for amplifying coverage to as broad a group as possible. Recognizing the limitations of social media platforms for JPE commissions in most states, it will be important to employ an even more grassroots approach to pushing media coverage out to a wider network. Consider creating a brief, sample email with a link to the coverage that each judicial commissioner can share with their networks. Share that same content with the larger court system's communications officers to share across their platforms and networks that are likely to be more robust. The importance of this amplification is even greater if newspapers editorialize about the importance of judicial elections. While newspapers don't have the same reach, their editorials still carry clout, especially with those most likely to vote.

6. IMPROVING TRADITIONAL OUTREACH

A Note About Community Outreach

All states do as much as staffing will allow to connect with community outreach opportunities. From the "rubber chicken circuit" to community gatherings and festivals, these efforts are important to keep key stakeholders engaged and informed, but often times, they also include preaching to the choir of individuals who are already interested in the topic and ready to act. While these efforts to participate in voter forums and election-related debates should not be ignored, states might consider adding an additional layer of indirect voter outreach to enhance their efforts.

Outside of the typical good government organizations such as the League of Women Voters, many states also have more focused advocacy organizations, typically with an aggressive 501(c)(3) arm or even a 501(c)(4) arm. These organizations, which sometimes focus on courts or other types of ethics issues, might be cultivated as informal partners because they have two things that could be beneficial to the ongoing effort to create more informed judicial voters: 1) A typically large and engaged social media following; and 2) The ability to be more aggressive and impactful in their messaging because they are not constrained by the limitations placed on more traditional organizations.

Consider creating a special update loop for these organizations, or including them in current outreach activities if they are not already.

Now that we've outlined ways to improve messaging, data presentation, and voter reach, let's consider how all the parts can fit together to optimize impact regardless of the financial investment each state is able to make in the outreach effort.

Here are a few things we know about the brave new media world of which we are all a part. These are particularly important to our voter outreach considerations.

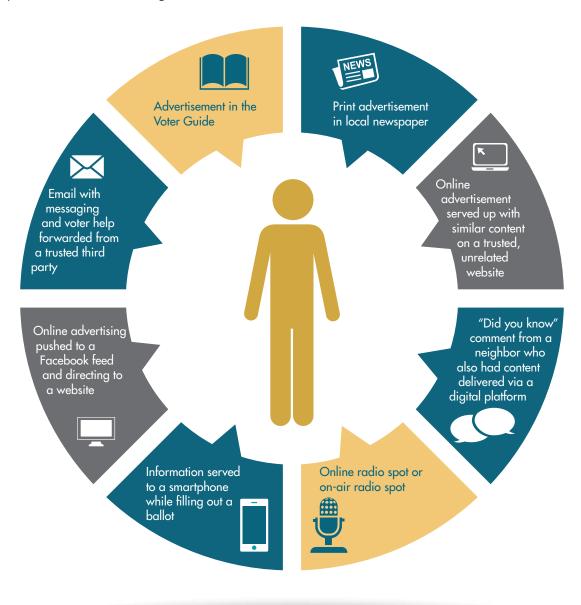
- 1. Marketing wisdom used to assert that an individual needed to be told the same message **at least seven times** before they were likely to act on that call to action. Today, that number has grown to 13, and for millennials who have most internalized new media channels, some estimate the number as high as 21.
- 2. Today, **50**% of individuals experience content on a mobile device first. That means they are seeing your content on a phone or small tablet well before they see it on a computer screen (if they ever do).
- 3. In 2012, online advertising revenue surpassed print advertising revenue for most standard print publications. That means straddling both worlds of print advertising and digital advertising has become more important than ever. Leaving behind older voters who continue to use traditional forms of information gathering is a bad idea. But ignoring digital realities and the fundamental shift that creates for younger voters will alienate multiple generations of voters that will be needed to create cultural voting shifts.

Taken together, these three facts seem to indicate that all states must begin to move forward on initiatives that better engage digital platforms while continuing to support traditional forms. While we can't ignore aging voters because they are traditionally the most likely to vote in all elections, a failure to invest time and resources into existing digital platforms is communications suicide over the long run.

First and foremost, the existing websites must be improved so that information is clear and easy for voters to use and the formats make sense for mobile devices. While some states and organizations have spent time and effort redesigning their sites so they are mobile friendly, search engine optimized, and pointing toward web addresses that are intuitive, others need to make these changes. Little, if any, additional investment of time and resources will do much good if voters are unable to use the information they find because it is too dense or takes too much time to decipher.

Once information on the website is functioning properly and the site itself is as optimized as possible within technological and financial constraints, then a strategy must be developed to fill as many communications channels as possible with one or two simple messages that can be repeated. The idea is not to tell the voter something they have never heard or to overload them with information—it is to provide them with the same simple, basic information through as many different touch points as possible, increasing the likelihood that they will act on the information and call to action.

You can conceptualize it as the following:



While this kind of contact with information feels more organic to the recipient, it requires a strategic plan that accounts for as many of the channels as possible. The good news is that with the wealth of digital options and their relative low cost in comparison to more traditional print advertising, radio, and television, this kind of message impact is within everyone's grasp.

Once these kinds of channels are developed and the content is decided, it will also become easier to push out information year round. While election cycles are obviously the most crucial points in time for connecting voters to judicial evaluation information and judicial retention questions, the commissions and other bodies involved cannot cease to exist digitally and publicly when there is no election. Annual editorial calendars, even when it is difficult to get traction on the information or message being pushed out, are important. We can't hope to fulfill the education piece of the work without ongoing attention to clear and consistent messaging, even when we don't think anyone is listening.

Creating a plan that is right for your state

With stretched budgets and limited staff, it can be tough to create the space and time needed to do a little strategic planning for improvements to communications and outreach. Consider the following prioritized steps to streamline strategy and focus investment.

PLANNING CHECKLIST

1.	Review your website and determine what can be changed or improved. This might be the single most important initiative you can accomplish. If voters are motivated enough to find information on judges, we must do everything we can not to put hurdles in their way. Additionally, investment in your website with serve you for years to come, not just in the next election cycle. Many states have innovated their sites where they can Consider New Mexico's use of zip code searches. Take a look at Utah's use of county-specific information. Then take a look at the following specific issues and see what is realistic for your state.
	Does your homepage clearly tell voters what they will find there?
_	When you search on Google for typical voter search terms, does your state's site appear high up on the lis of results?
_	Is your website mobile optimized? Does it display well on most phone types? Can you use a phone or table to easily find individualized information on judges?
	Can you add features that will make it easier for voters to find the specific judges on which they will vote including zip code searches or other easy ways to get a list of their judges, preferably delivered to their smartphone?
-	Is it possible to display top level information about each judicial evaluation in a more user-friendly way What can you do within the technological constraints of your digital platform to make it easier for voters to both understand and use the information they are seeing?
	Build your traditional outreach and communications efforts. k about how the pieces you have traditionally done can be improved. Consider which vehicles give you the best return he investment.
	How can you enhance your press outreach?
	Can you improve on the information or presentation in your state voter guide?
	Are there advertising options you have traditionally used that don't really pay off?

3. Consider how you might mix in digital advertising. Begin to mix in some digital outreach where possible as advertising that can be tracked and measured. Start to invest in finding ways to drive traffic to your website. Can you invest in Facebook advertising? Can you use Google analytics (for free) on your website to see what kind of traffic you are getting and track where visitors are originating?

4. Take the time to evaluate and recalibrate.

streaming radio?

Just as you do with your evaluation systems, take time after the next election cycle to understand how your outreach and communications efforts performed. With more trackable types of digital communications come the ability to carefully evaluate what works and what does not.

Do you have any resources to experiment with some out-of-the-box digital outreach like a 30-second spot on



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