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Why Are State Judges Among Us?

PUBLIC SERVICE AND SELF-PRESENTATION

By Elisha Carol Savchak
and Amanda Ross Edwards

A CONSIDERABLE NUMBER OF JUDGES ARE STEPPING AWAY from the bench and their chambers in order to interact with the public through judicial outreach activities. Why? We execute a nationwide survey of state appellate court judges to learn more about this increasingly time-consuming part of today's judicial work. We find overwhelming support for judicial outreach across the states, and we discover that judicial outreach efforts are very diverse.

It is not uncommon today to cross paths with a judge at a public event. Delivering speeches to citizen groups, teaching middle school students about civics, and judging mock trial and moot court competitions have become a regular part of state and federal judges' routines. Indeed, today's judges mingle with others in myriad settings and thus broaden their influence beyond the bench. Such judicial outreach pushes judges beyond their foundational role as dispute settler and allows them to engage in other meaningful ways with fellow citizens.

Although the bulk of judicial research examines traditional judicial work, such as decisionmaking, our research delves into an increasingly important and time-consuming aspect of the judicial function by systematically evaluating attitudes about judicial outreach among state appellate court judges and the extent to which they engage in these activities. Events that bring together public officials and citizens have traditionally been the purview of legislators, governors, and presidents. As judges incorporate outreach activities into their regular business,[1] we explore their motivations for doing so and propose that judicial outreach is a product of public service and self-interest. Public service involves judges' goals to educate the public, while self-interest includes the desire to both enhance institutional legitimacy and secure reelection prospects for those who must face elections. A better understanding of judicial outreach practices may also provide insight into how such activities impact conventional aspects of judicial work.

Scholars have noted education as a decisional byproduct of judicial work, whereby judges, as "republican schoolmasters," are able to inform citizens about the proper interpretation of law and lend credibility to certain legal arguments and outcomes through their decisions.[2] As noted by Charles Franklin and Liane Kosaki, "The concern at the founding was not only that the Court should respond to public opinion but that it should also play an important role in educating that opinion."[3] Ralph Lerner suggests, "although the mode in which the judges have responded [to public opinion] may have changed over time, the problem to which they have responded persists … the proper connection between judicial power and public opinion remains live and urgent, if mocking of final formulations."[4] At its core, judicial outreach is a public service whereby judges educate the public about the courts and foster understanding of their role and function.

At the same time, judicial outreach can engender opportunities for judges to pursue goals that may be important to them or the court they serve. While most scholars study judges' policymaking goals, Lawrence Baum's (2006) work on judicial behavior reveals that judges are motivated by desires for popularity and respect among a wide variety of "audiences."[5] According to Baum, judges may devote their time and attention to these audiences for many reasons, including educating citizens about the judiciary's role in American government, intriguing would-be buyers of memoirs and legal treatises, and, at the state level especially, fundraising and

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garnering reelection votes. Baum's work demands that scholars also be mindful of judges' desires for self-presentation for a fuller understanding of judicial behavior.

We suggest that judicial outreach provides judges with an outlet for pursuing self-presentation goals. Improving the judiciary's image and raising a judge's visibility among the public for reelection purposes may be intertwined with otherwise benevolent outreach efforts. Because the judiciary depends financially and politically on the other branches of government, judges may feel they must continually prove the value of their work and fortify their institution's legitimacy. Judicial outreach serves as a means of enhancing public respect and acceptance for their judicial decisions. Judges can also use their outreach work to promote their own names in the hopes of securing reelection. Scholars therefore should not overlook potentially overlapping individual and institutional incentives in assessing judicial-outreach behavior.

Our nationwide survey of state appellate judges, including state supreme court justices, provides information on the extent to which judges are engaging in judicial outreach today, the different types of activities they are engaging in as a part of their outreach efforts, and whether and how they use these activities as tools for achieving various goals. The results suggest judicial outreach has become an important tool by which state judges enhance their legitimacy and raise their own profiles while navigating a balance between independence from and accountability to the public.

ENGAGED, YET INDEPENDENT

Judges certainly confront competing interests in the course of their work. Concerns about judicial independence demand a separation between the judicial branch and others, lest the work of the judiciary be tainted by outside influences.[6] As stressed by Madison in *The Federalist 51*, if the judiciary is to operate as an effective check on the legislative and executive branches, it must be independent from the power wielded by the other two branches of government. Creating distance between the people and judges helps to alleviate public pressures and moneyed interests from influencing judicial selection and, eventually, the judicial decisionmaking processes. Any judicial involvement in public politics might potentially harm the perceived legitimacy and impartiality of their decisions, as both ideals rest on public confidence in the institution itself.[7] Accordingly, desires for increasing judicial independence call for judges to adhere strictly to their basic roles in the courtroom rather than engaging in public activities.[8]

At the same time, many scholars agree that judges' ability to maintain judicial independence is now dependent on their ability to maintain public confidence through their involvement in the community, rather than disengagement from it. Kevin Esterling, for example, contends, "because judges have a difficult time responding publicly to criticism, their isolation from society is increasingly insufficient for maintaining their court's legitimacy."[9] Judicial legitimacy and public accountability are thus interrelated: The courts must be aware of and somewhat responsive to public opinion to maintain confidence in

TABLE 1: RESPONSES BY STATE AND NUMBER OF JUDGESHIPS (SURVEYS RETURNED/NO. OF JUDGES)

	State Supreme Court	Intermediate Appellate Court		State Supreme Court	Intermediate Appellate Court
Alabama	0/9	1/10	Montana	2/7	
Alaska	2/5	2/3	Nebraska	0/7	1/6
Arizona	2/5	10/21	Nevada	3/7	
Arkansas	3/7	6/12	N. Hampshire	3/5	
California	3/7	30/104	New Jersey	0/7	0/32
Colorado	0/7	8/22	New Mexico	1/5	8/10
Conn.	1/7	7/9	New York	1/7	11/54
Delaware	1/5		N. Carolina	1/7	7/15
Florida	4/7	13/61	N. Dakota	3/5	
Georgia	3/7	3/12	Ohio	5/7	18/68
Hawaii	1/5	2/6	Oklahoma	6/14*	5/12
Idaho	2/5	2/4	Oregon	4/7	4/10
Illinois	0/7	19/54	Pennsylvania	2/7	2/22
Indiana	1/5	6/15	Rhode Island	1/5	
Iowa	4/7	4/9	S. Carolina	2/5	2/9
Kansas	2/7	7/14	S. Dakota	1/5	
Kentucky	2/7	7/14	Tennessee	3/5	4/12
Louisiana	1/7	15/54	Texas	3/18*	22/80
Maine	0/7		Utah	2/5	2/7
Maryland	3/7	4/13	Vermont	1/5	
Mass.	1/7	3/25	Virginia	2/7	2/10
Michigan	2/7	6/28	Washington	5/9	11/22
Minnesota	0/7	6/19	West Virginia	2/5	
Mississippi	2/9	3/10	Wisconsin	0/7	5/16
Missouri	2/7	15/32	Wyoming	2/5	
			Did Not Report	3	3

* For Oklahoma and Texas, this figure is the total number of judges serving on both the Supreme Court and the Court of Criminal Appeals, the two courts of last resort in each state.

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their decisions. Judicial outreach today may serve as the practical nexus between the proper degrees of judicial accountability and independence.

The current attitude toward judicial outreach leans toward acceptance. The legal community validated judicial outreach by adopting amendments to the ABA's Model Code of Judicial Conduct that describe outreach as proper and valuable work for judges.[10] Meanwhile, several states include commitments to judicial outreach in their own codes of judicial conduct and have tasked committees with creating fruitful outreach programs, signaling an effort to incorporate judicial outreach as a routine judicial duty.[11]

Other actions lend support for increased judicial outreach activities. The United States Supreme Court's 2002 decision in *Republican Party of Minnesota v. White* allowed greater speech rights for judges wishing to speak on political matters, which may alleviate some institutional fear that engaging with citizens will be viewed as improper.[12] And, judicial outreach efforts in the states have increased with the avid support of some prominent chief justices. Accordingly, state court judges are embracing judicial outreach as a responsibility rather than a "judicial hobby."[13]

Despite the growing prevelance of judicial outreach, there is surprisingly little research on it. Existing work uses case studies or small datasets to describe innovative judicial outreach activities and the utility of such endeavors.[14] Judges also write about their own courts' judicial outreach efforts and use their written work to communicate with one another about reaching the public more effectively.[15] This study addresses the growing trend of judicial outreach from a systematic perspective using data from a nationwide survey of judges at two levels of state court systems: supreme and intermediate appellate courts.

THE SURVEY

To learn more about judicial outreach trends at the state level, we executed surveys of state supreme court justices during the summer of 2012 and intermediate appellate court judges during the winter of 2014 in order to obtain first-hand accounts of the nature of outreach. Surveys were mailed to all current 340 supreme and 936 intermediate appellate court judges, and we received responses from 100 and 285 judges, respectively, for a total response rate of 30.2 percent. Our survey questioned several aspects of judicial outreach, including the amount of time spent on outreach activities, whether the culture of their court encouraged outreach, the forms of outreach activities in which the judges engage and with which types of groups, and the motives behind public engagement.

Before reviewing the results of our surveys, a few notes should be addressed. First, our study conceives of judicial outreach rather broadly; we questioned respondents about "time spent engaging with the public," and our questions were aimed at learning more about an array of outreach practices. Also, the survey was developed in light of informal interviews with several judges about how to best ask judges about their outreach practices. We were advised to refrain from asking judges to self-identify (and we did not ask this), but the survey did ask judges to indicate the state in which they work in order for us to draw conclusions about outreach comparatively across the states. We allowed judges to explain themselves through open-ended questions; these comments provided a rich commentary on more specific aspects of judicial outreach. We are aware that some judges may have asked their law clerks, staff attorneys, or administrative assistants to complete the survey in part or in whole, but we assume that person would be working closely enough with the judge to respond accurately.

Finally, we understand that judges who are supportive of judicial outreach are more likely to respond to a survey about such activities. Our results may, therefore, be skewed by this type of self-selection bias and should be understood with this note in mind. However, we also maintain that our survey is the first of its kind to gather systematic data regarding this aspect of judicial work, and the results do allow us to draw some initial general conclusions about judges' commitments to outreach around the country. While the data presented here represents only 16 percent of the total number of state appellate court judges, we

TABLE 2: IMPORTANCE OF JUDICIAL OUTREACH

Response	No. of Judges	Percent
Very important	268	70.16
Somewhat important	99	25.92
Not very important	11	2.88
Not at all important	0	0.00
Don't know	4	1.05
Total	*382*	*100*

TABLE 3: HOURS SPENT ON JUDICIAL OUTREACH (PAST YEAR)

Response	No. of Judges	Percent
0 hours	3	0.79
1 – 5 hours	29	7.61
6 – 10 hours	26	6.82
11 – 15 hours	24	6.30
16 – 20 hours	27	7.09
21 – 25 hours	18	4.72
26 – 30 hours	26	6.82
31 – 35 hours	6	1.57
36 – 40 hours	30	7.87
41 – 45 hours	11	2.89
46 – 50 hours	8	2.10
51 – 55 hours	5	1.31
56 – 60 hours	17	4.46
More than 60 hours	138	36.22
Don't know	13	3.41
Total	*381*	*100*

TABLE 4: WORK TIME SPENT ON JUDICIAL OUTREACH (PAST YEAR)

Response	No. of Judges	Percent
0 percent	32	8.42
1– 5 percent	172	45.26
6 - 10 percent	77	20.26
11 - 15 percent	23	6.05
16 - 20 percent	23	6.05
More than 20 percent	21	5.53
Don't know	32	8.42
Total	*380*	*100*

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believe it is enough to draw certain conclusions about the state of judicial outreach. Furthermore, the judges' open-ended comments provide rich data regarding their outreach activities and the reasons behind their outreach work.

We received survey responses from supreme and intermediate appellate courts representing 48 states, with judges from 42 supreme courts and 38 of the 39 intermediate appellate courts. Table 1 shows response rates by state and court level.[16]

THE VALUE OF OUTREACH AND OUTREACH EFFORTS

Several of our survey questions allowed us to draw conclusions about judges' general attitudes toward judicial outreach. Table 2 shows that, overall, judicial outreach is well supported. When we asked judges how important it is for them to participate in outreach activities, over 70 percent indicated that it is "very important," while nearly 26 percent reported weaker support for outreach by expressing that such work is "somewhat important." Less than 3 percent of judges noted that judicial outreach is "not very important."

Opportunities to engage with people outside the courtroom usually come through invitations from the groups themselves, and the data show that judges are overwhelmingly willing to accept such requests. Almost 68 percent of judges accept nearly all requests to participate in public activities, and many other judges (21.2 percent) accept at least "some" groups' requests. Not surprisingly, these judges make up the bulk of those who attributed importance to judicial outreach, with almost 88 percent of judges both considering judicial outreach to be important and having fairly open-acceptance policies. Less than 2 percent of judges are only open to entertaining "a few" requests, perhaps from specific groups aligned with the judges' interests. Meanwhile, a handful of judges (8.38 percent) handle outreach requests on a case-by-case basis, rather than granting all invitations or none, and, surprisingly, almost all of these judges indicated that judicial outreach is an important part of judicial work. From this, we conclude that even some of the judges who are most supportive of outreach activities are not simply willing to accept any invitation that comes their way. Additionally, some judges said they initiate their own outreach, including through court-based programs.

The amount of time judges spend on outreach varies greatly. While nearly half (47.0 percent) of judges reported spending more than 40 hours on outreach last year, another half of judges reported spending anywhere from 1 to 40 hours, as shown in Table 3. Table 4 displays the data in terms of judges' work time devoted to outreach, presenting a similarly diverse range of time committed to outreach. Just over 45 percent of judges spent between 1 and 5 percent of work time on outreach last year, but a significant portion of judges (20.26 percent) reserved 6 to 10 percent of work time for such activities. Others indicated that anywhere from 11 to more than 20 percent of work time was spent engaging with the public.

It is clear that the vast majority of judges spend at least some work time on judicial outreach. It is also clear that at least some judges devote time outside of work to judicial outreach, as indicated by the following comments: "Judicial workloads include no accommodation for judicial outreach. The same amount of work must be completed regardless of judicial outreach commitments"; ". . . most done at lunch and other hours [outside of work time]"; "usually done on personal time." Interestingly, despite the fact that judges are pledging a wide range of time to outreach activities, the data suggests a weakly positive relationship between the perceived importance of outreach and the hours spent on it ($r = 0.3075$, $p < .01$) and importance and the percentage of work time devoted to outreach ($r = 0.2528$, $p < .01$). It seems likely that judges who place high importance on judicial outreach will devote more time to it, but because the data is based on memory recall rather than actual recorded hours spent on outreach, we hesitate to draw strong conclusions.

TABLE 5: MOTIVATIONS FOR JUDICIAL OUTREACH✦

Response	No. of Judges	Percent
Increases public knowledge and understanding of the judiciary.	363	94.29
Increases public trust and confidence in the judiciary.	355	92.21
Fulfills a professional obligation.	290	75.32
Provides me with an opportunity to address misconceptions about the judiciary put forth by the media.	229	59.48
Increases my personal visibility.	150	38.96
Increases public loyalty to the judiciary.	140	36.36
Helps me to make better decisions for the people.	78	20.26
I do not participate in judicial outreach.	0	0.00
Don't know	1	0.26
Other	16	4.16

✦ *Respondents were allowed to choose all applicable responses.*

INSTITUTIONAL AND INDIVIDUAL MOTIVATIONS

Another dimension of our survey deals with judges' motivations for engaging in judicial outreach. Previous work suggests that judges may be inspired by multiple goals, such as teaching the public and boosting their self-image and that of their courts. We asked judges about their personal motivations, and many elaborated in the open-ended section.[17] Table 5 provides data on reasons for engaging with the public through outreach work.

Institutional concerns trump all other possible motivations for judicial outreach. For nearly all judges (almost 95 percent), the overwhelming purpose for engaging in outreach activities is to educate the public about what judges do and judiciary mechanics. One intermediate appellate court judge comments on the need for

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direct communication between judges and people: "I think it is very important for people to meet judges — to get a first-hand account of how the judiciary really operates." And, a supreme court justice writes, "I believe such outreach is essential . . . The lack of basic understanding regarding the role of the judiciary is alarming."[18]

The judges' comments further reveal two trends underlying the motivation for acting as teachers to the public. First, several judges lamented the lack of sufficient civics education in their states' schools. As one judge stated, "I reach out to children so that I can teach civics since [my state] has eliminated the subject in schools. This outreach is personal and has nothing to do with politics." Many judges also gave specific examples about the outreach connections between their court and area schools. Judges from both court levels expressed concern about how curriculum changes affect knowledge about the judiciary and American government. While both sets of judges seemed troubled over how little the public knows about the courts, several intermediate appellate court judges commented on the lack of knowledge about their specific court. As examples:

> "I believe it is important to help educate people about the role of what can be a fairly anonymous court."
>
> "Most people are not familiar with the intermediate appellate court. Outreach is excellent education . . . in the least known part of the least visible branch of government."

Overall, the data show that state appellate judges view themselves as educators as well as judges. One respondent stated simply, "Judges are teachers." Taken together with the evidence of the number of judges engaging in outreach, it seems that judges across the country are devoting a significant amount of time to literal service as republican schoolmasters, as "teachers to the citizenry."[19]

The other chief institutional motivation behind outreach work lies in the opportunity it presents to boost the judiciary's public image and thus legitimacy by presenting judges and courts in a favorable light. Ninety-two percent of judges said increasing public trust and confidence in the courts was a motivational factor for their outreach efforts. Many of the judges' comments alluded to the nexus between outreach and public trust, including the ability to reveal themselves as "real, normal, and car[ing]" people. As a few judges noted, "The more the public understands our role in the justice system, the more they will have trust and confidence in our decisions," and, "It is good for the court to present a human face to the work we do." Another commented on a statewide effort to reach out to the community in order to "help reassure them we were people who cared about them, their concerns, and the community and not Olympian demigods who toyed with them." These results accord with research suggesting that increased knowledge and awareness about courts lead to more positive opinions about the institution.[20] At the same time, just over 36 percent of judges indicated a connection between judicial outreach and increasing public loyalty to courts. Clearly, judges' concerns regarding the public's lack of knowledge about judicial function and the public's impression of judges as remote and unsympathetic provide an impetus for outreach around the country.

> "NINETY-TWO PERCENT *of* JUDGES SAID INCREASING PUBLIC TRUST *and* CONFIDENCE *in* THE COURTS WAS A MOTIVATIONAL FACTOR *for* THEIR OUTREACH EFFORTS.

Judges also said they participate in outreach to address misconceptions about the courts. About 60 percent of judges participate in outreach to combat false impressions. This supports earlier work that suggests the increase in judicial outreach is a direct result of perceived attacks on judicial independence, such as Tennessee Supreme Court Justice Penny White and California Supreme Court Justice Rose Byrd's losses in retention elections focused on their opposition to the death penalty; media sensationalism and misreporting of judicial decisions; and increasingly intense campaigns for judicial elections.[21] Although research shows judicial candidates' statements on policy positions and general judicial campaign activities are not damaging to overall judicial legitimacy, judges can play a role in undoing the negative attitudes toward courts by taking the positive action of engaging in outreach with the public.[22] Several comments elucidated this motive behind the judges' outreach work:

> "We in the legal community cannot control information or hide behind it in our ivory tower. We need to be at the table . . . ."
>
> "It is important to explain to the public that the real judiciary and judges are not what you see on television."

Previous research validates outreach as a means of improving public perception of the courts,[23] and, as one respondent noted, judges may be in the best position to respond to attacks on the judiciary:

> Our judges are the best ambassadors for the court system, so I believe that it is important for them to be out in the community. The more that citizens can see that they are thoughtful, concerned, fair and hard working, the less the citizens will believe the propaganda that says judges are elitist, activist, imperial (or whatever the latest buzz words are). Judicial outreach of all types is the best antidote for the anti-judicial efforts of a few.

The final institutional motivation judges were asked about was whether outreach is a part of the judicial role. Over 75 percent of judges agreed that devoting time to outreach is a "professional obligation." Respondents said outreach is "an important part" of the job, a "responsibility as a public servant," and "an essential part of public service." One judge commented, "Judicial outreach is as important as the actual business of judging." One judge elaborated on an outreach program insti-

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tuted in her state that seeks to combat the high dropout rate among high school students: "Each year our court . . . travels to various high schools . . . [W]e have visited with approximately 10,000–12,000 high school students and engage with them in the benefits of staying in high school and obtaining higher education . . . notwithstanding our heavy caseload." For some judges, their roles as public servants require them to use judicial outreach opportunities to address public policy concerns.

A significant number (39 percent) of judges reported that personal visibility is a motivating factor for their outreach work. For some, outreach opportunities may serve to fulfill goals tied more closely to personal success, such as winning reelections. Mingling among the public provides a judge with the indirect, or perhaps direct, opportunity to campaign, increase public familiarity with his or her name, and earn some votes or even campaign contributions. As one judge plainly stated, "Another reason to participate in such outreach efforts is the necessity of retention." This behavior has been closely linked to legislators and executives, but Baum (2006) aptly describes this as an instrumental goal of self-presentation among judges, too.[24]

In fact, many judges commented frankly on the connection between outreach and reelection. Table 6 shows correlations between the various retention methods used in the states and judges' motivations to increase their visibility through judicial outreach. The data reveal a positive and statistically significant relationship between the need to stand for public approval through competitive elections and the desire to increase public visibility through outreach. Partisan and nonpartisan reelected judges were most likely to indicate this as a motivator behind outreach (as indicated by the positive and statistically significant relationship between these two retention methods and public visibility), as opposed to judges facing retention election (as shown by the negative and statistically significant relationship between retention elections and public visibility). These results make sense given that partisan and nonpartisan elections place judges in competition with challengers, whereas uncompetitive retention elections spark much less attention from the public and generally result in a win for the judge. Similarly, a negative and statistically significant relationship also exists between motivations to increase public visibility and judges who are not held to a public election in order to retain their seats. Again, judges' comments reinforce this link:

TABLE 6: CORRELATIONS BETWEEN PUBLIC VISIBILITY & RETENTION METHOD

RETENTION METHOD	JUDGES MOTIVATED BY DESIRE TO INCREASE VISIBILITY
Elections	0.156**
Partisan	0.195***
Nonpartisan	0.221***
Retention	-0.232***
No Election	-0.156**

*$p < 0.05$, **$p < 0.01$, ***$p < 0.001$

TABLE 7: JUDICIAL OUTREACH BY GROUP TYPE✦

Response	No. of Judges	Percent
Legal	243	63.1
Education	211	54.8
Community	128	33.2
Business	45	11.7
Political	40	10.4
Other	40	10.4

TABLE 8: JUDICIAL OUTREACH BY ACTIVITY TYPE✦

Response	No. of Judges	Percent
Speaking at events	218	56.6
Committee work	135	35.1
Teaching	128	33.2
Attending events	106	27.5
Meeting individuals	932	4.2
Competition judge	91	23.6
Other	33	8.57

✦ Respondents were allowed to choose all applicable responses.

"We stand for election, so outreach is not entirely altruistic."

"In our state, we elect judges and public outreach enables them to know who they are electing."

Because the majority of judicial work involves making important decisions that affect citizens, developing a deeper connection with the public may help judges make better decisions by providing a more realistic and practical perspective on which to base judgments. Outreach provides courts "continuing contact with their community, and this helps them learn the community's enduring norms, standards, and perceptions of fairness . . . to bring a community perspective to their basic approach to decisionmaking."[25] However, a relatively small portion (20.3 percent) of judges referenced this as a motivation for judicial outreach, indicating that conversational exchanges made between judges and the public through outreach efforts do not significantly impact judicial decisions.

While most judges' comments were aimed at providing further explanation for the outreach motivations listed above, a small group of comments provided evidence for additional incentive, such as relief from judicial isolation and the "personal reward," "fun," and "enjoyment" they experienced from their outreach work. Also worth mentioning are statements about being "role models" to the public, especially for judicial aspirants and racial and gender minorities, and remarks about demonstrating that all people have "equal access" to the justice system. Clearly, judges' motivations for outreach are multifaceted.

JUDICIAL OUTREACH PRACTICES

Just as reasons for engaging in judicial outreach vary, so too do the types of groups and activities in which judges engage. Legal and education groups benefit the most from judges' outreach work, as shown in Table 7. Over 63 percent of judges interact with legal groups, such as state bar associations, and 54.8 percent of judges engage with education groups, including public elementary, middle, and high schools, as well as law school classes and student government groups. Over 33 percent of judges noted that they engage

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with humanitarian organizations, elderly groups, and other community-based organizations. Less frequently visited groups include those relating to political issues (10.4 percent), business (11.7 percent), and "other" (10.4 percent) interests.

While we did not ask judges why they participate with certain groups rather than others, we can draw some explanations from the judges' comments and our informal interviews with a handful of judges. First, strong personal preferences for or against certain types of groups may guide judges in deciding which groups they interact with. For example, some judges may feel a natural connection with children or young adults, so they are most inclined to engage with education groups. Or, they may be legally restricted from or have ethical reservations about participating in partisan events, and so they avoid such groups altogether.

Participation in certain activities may be a function of the events that judges are invited to, as opposed to judges selecting events for themselves. Even though judges may exercise the right to initiate contact with groups to arrange outreach activities, they may be unwilling to do so or are already overwhelmed by many outside requests. Therefore, education and legal groups may be the majority of the groups seeking judges to participate in their events, while business and political groups may just be less interested. Also, courts around the country have created judicial outreach programs of an educational nature, such as the Florida Justice Teaching Institute, Utah's Coalition for Civic, Character, and Academic Service Learning, and Indiana's Classroom in the Courtroom, providing easy outreach opportunities for judges in those courts.

We suspect that judges' underlying motivations also play a role. That is, if a judge's goal is to educate citizens about the way the judiciary works, then it makes sense for them to speak to schoolchildren or community groups, rather than groups that are well-educated in the law and political processes, like legal and business groups. On the other hand, judges who are nearing reelection and aim to increase their personal visibility among likely voters might target legal and political organizations as opposed to reading with elementary schoolchildren. Along these lines, one judge comments that, "the reasons for outreach differ somewhat depending on whether it is outreach to lawyers or nonlawyers." Therefore, judges' goals can play a large role in determining where their outreach is directed.

"JUDGES ALSO RECOGNIZE THE SIGNIFICANCE *of* OUTREACH IN HELPING THEM TO STAY ON THE COURT OR, POSSIBLY, SEEK ELEVATION TO A HIGHER COURT. SEVERAL JUDGES INDICATED THIS *in* COMMENTS, SUCH AS "JUDGES IN [OUR STATE] ARE ELECTED, WE HAVE TO ENGAGE IN OUTREACH *as* PART OF OUR CAMPAIGNS."

Table 8 shows that judges are doing various types of outreach across the country. The most popular way that judges engage with the public is by speaking at events (56.6 percent). From there, their time is split serving on committees (35.1 percent), teaching (33.2 percent), simply attending events (27.5 percent), meeting with individuals and academics (24.2 percent), and acting as competition judges (23.6 percent) at, for example, mock trial or moot court events. Another 8.57 percent said they engage in "other" types of activities, including live radio shows discussing legal issues, giving dramatic monologues on historically significant events, and authoring materials related to courts and government.

FUTURE CONSIDERATIONS

Citizens no longer have to be called to court for jury duty or subpoenaed to testify in order to interact with judges. Judicial outreach increases opportunities for citizen–judge connections outside the courtroom. Here, we present results from the first systematic inquiry into this intriguing part of the evolving judicial role. Our nationwide survey of state appellate court judges offers a broad view of judges' public outreach activities and suggests that even though their chief job involves resolving disputes, appellate judges across the country spend various amounts of time engaging with an array of groups in numerous ways.

Our findings comport with earlier research suggesting that judges play the role of "republican schoolmaster" to the American public by actively pursuing more conventional ways of educating the public through judicial outreach opportunities. Furthermore, this study builds on more recent research suggesting that judges are interested in serving as more than mere policymakers and also find value in promoting themselves and their courts. The results reveal that outreach can provide a gateway for pursuing the public servant role of educator, while also pursuing individual and court-level needs for self-promotion.

Also highlighted here are instrumental aspects of judicial outreach. Outreach can be a potential tool for judges in garnering judicial legitimacy as they are the most credible actors for improving the public face of the judiciary. It has been noted that, "the ability of courts to act as independent decisionmakers depends on their involvement in local communities through various public outreach efforts."[26] As one judge clearly stated,

> "I believe that, in many ways, judicial outreach is as important as the actual business of judging. Public understanding of the role of an independent judiciary in our system of government is indispensable to the viability of the judiciary."

Judges also recognize the significance of outreach in helping them to stay on the court or, possibly, seek elevation to a higher court. Several judges indicated this in comments, such as "judges in [our state] are elected, we have to engage in outreach as part of our campaigns."

For elected judges especially, our results show that the awareness of an impending

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> NINETY-FIVE PERCENT *of* SUPREME COURT JUDGES AGREED GENERALLY THAT THEIR COURT CULTURE SUPPORTED OUTREACH EFFORTS COMPARED *to* 78.9 PERCENT AGREEMENT AMONG INTERMEDIATE APPELLATE COURT JUDGES.

reelection propels some outreach efforts in order to cultivate greater familiarity among the electorate.

Our study supports the need for further research related to judicial outreach, particularly its potential for changing public opinion about courts and judges as well as the overall role of judges in American society. Clearly, judicial outreach is but one step in the process of opening the courts to the public, alongside the creation of public relations offices, building sophisticated court websites, and streaming oral arguments over the Internet. But, how crucial is judicial outreach for generating greater awareness of judicial work and the role of courts? Do courts enjoy greater legitimacy and higher public opinion as a consequence of such personal interactions between judges and people? Research indicates that knowing more about courts leads to more favorable opinions about and increased loyalty to the judiciary, while experiences in state courts, such as serving jury duty or having direct experience as a litigant, tend to boost perceptions of judicial fairness.[27] But, do judicial outreach efforts also foster these links? We do not attempt to answer these significant questions here, but future research should address them in order to provide strong support for or arguments against the continuation of judicial outreach across the country and our understanding about the significance and impact of this element of the evolving judicial role.

If personal experiences and characteristics influence judicial behavior, then it may also be possible for judicial outreach to have an effect on judicial outcomes. A healthy portion of judges participating in our study confessed that outreach work may have some bearing on their decision-making process as a judge; it is remarkable that some judges do feel a direct connection between the parts of their job that occur outside and within the courthouse. The comments received from judges hinted at this connection, such as:

> "I think it is important for judges to fully understand the culture of our local society and to adapt our reasoning process accordingly."
>
> "[Judicial outreach] prevents isolation and helps maintain the sense that our decisions are important to everyday people."

The results indicate the need for further research to uncover whether there are direct connections between certain types of outreach activities and decision outcomes, especially in terms of case selection and opinion content.

The results also support the need for scholars to further research how and why courts may go about encouraging or discouraging practices of judicial outreach across the states. The data suggests that state supreme courts are generally more supportive of the practice. We asked judges whether the culture of their court encouraged judicial outreach, and supreme court justices "agreed strongly" at a higher rate (75 percent) than intermediate appellate court judges (42.5 percent). When we combine this data with respondents who "agreed somewhat" with the statement, it seems that supreme courts are almost unanimous in support of judicial outreach, a considerably higher endorsement than at the intermediate appellate level: 95 percent of supreme court judges agreed generally that their court culture supported outreach efforts compared to 78.9 percent agreement among intermediate appellate court judges. Our findings also show that court culture does not dictate individual attitudes about judicial outreach; 93.1 percent of judges working within environments they believe to be unsupportive of outreach still maintain that outreach is an important element of the judicial job. Further research should examine whether such attitudinal differences about judicial outreach among judges and courts are attributable to court leadership (perhaps some chief judges or justices are more supportive of outreach than others), greater or fewer restrictions on outreach activities in state judicial codes, personal goals or past experiences, or institutional differences across courts, such as workload or reelection needs.

It is important to acknowledge that a handful of judges took an opposing view and expressed unease about judicial outreach and its impact. When we allowed judges to elaborate on their outreach activities, some commented about the uselessness and impropriety of such work, the restrictions on outreach speech, and the possibility of damaging the reputation of courts. One judge, for example, simply stated:

> "I believe [judicial outreach] to be largely ineffective. We touch such a small [percentage] and many of them already know or care, so the educational benefit is small in quantity of both education delivered and persons involved. Others we need to reach are not in the pool."
>
> "I believe appellate judges should be read, not seen or heard."

These sentiments were expressed by a relatively small number of judges participating in the survey, and they seem antithetical to the research that suggests people want to learn about the courts from actual judges and that many judges see judicial outreach as an important means for maintaining judicial legitimacy today.[28] These comments may reflect an underlying normative debate regarding the proper roles of courts and judges.

Despite these considerations, the survey results overwhelmingly demonstrate that judges are avid about outreach, regardless of their reasons for engaging with the public, and generally consider outreach to be just another aspect of judicial work.[29] In fact, 83.3 percent of judges overall agreed either strongly or somewhat that the culture of their court encouraged judicial outreach, indicating that outreach is not only an individual concern, but it is rapidly

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becoming an institutional norm in many state appellate courts.

[1] *See* Richard F. Fenno Jr., Senators on the Campaign Trail: The Politics of Representation (1996); Samuel Kernell, Going Public: New Strategies of Presidential Leadership (3d ed. 1997); David R. Mayhew, Congress: The Electoral Connection (1974).

[2] *See* Charles H. Franklin & Liane C. Kosaki, *Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion*, 83 Am. Pol. Sci. Rev. 751, 751–77 (1989); Ralph Lerner, *The Supreme Court as Republican Schoolmaster*, in The Supreme Court Review (Philip Kurland ed., 1964).

[3] Franklin & Kosaki, *supra* note 2, at 752.

[4] Lerner, *supra* note 2, at 12.

[5] *See* Lawrence Baum, Judges and Their Audiences: A Perspective on Judicial Behavior (2006).

[6] *See* Peter Allen Bell, Note, *Extrajudicial Activity of Supreme Court Justices*, 22 Stan. L. Rev. 587, 587–617 (1970); Leslie B. Dubeck, *Understanding Judicial Lockjaw': The Debate Over Extrajudicial Activity*, 82 N.Y.U. L. Rev. 569, 569–601 (2007); Kevin M. Esterling, *Public Outreach: The Cornerstone of Judicial Independence*, 82 Judicature 112 (1998).



AMANDA ROSS EDWARDS is an assistant teaching professor and program director for Leadership in the Public Sector at North Carolina State University.

ELISHA CAROL SAVCHAK is an assistant professor of political science and the pre-law coordinator at Elon University.

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[7] *See* Bell, *supra* note 6; Esterling, *supra* note 6; Gregory A. Caldeira & James L. Gibson, *The Etiology of Public Support for the Supreme Court*, 36 Am. J. Pol. Sci. 635 (1992).

[8] *See* Dubeck, *supra* note 6; Dean Acheson, *Removing the Shadow Cast on the Courts*, 55 A.B.A. J. 919 (1969).

[9] Esterling, *supra* note 6, at 113. Hamilton's assertion in The Federalist 78 that the judiciary is weak due to its lack of neither "force nor will, but merely judgment" foreshadows their reliance on the public in order to exact and achieve compliance with their decisions.

[10] *See* Richard L. Fruin, *How Judicial Outreach Became a Part of the Model Code of Judicial Conduct*, Judges' J. 27 (2007).

[11] *See* Richard L. Fruin, *Judicial Outreach in the Twenty-First Century: The Reasons Why*, 48 Judges' J. 27 (2009); Richard L. Fruin, *Judicial Outreach in State Courts*, 40 Judges' J. 16 (2001); Ruth V. McGregor, *State Courts and Judicial Outreach*, 21 Geo. J. of Leg. Eth. 1283 (2008).

[12] *See* Keith Rollin Eakins & Karen Swenson, *An Analysis of the States' Responses to Republican Party of* Minnesota v. White, 28 Just. Sys. J. 372 (2007) (discussing states' formal reactions to the Court's ruling).

[13] *See* John J. Sweeney, Richard Fruin & Rebecca J. Fanning, Courts Connecting with Their Communities: Judicial Outreach Comes of Age, in The Improvement Of The Administration Of Justice (Gordon M. Griller & E. Keith Stott, Jr., eds., 7th ed., 2002).

[14] *See* Esterling, *supra* note 6; Jeffrey C. Dobbins, *Judicial Communication, Elections, and the Oregon Supreme Court*, 46 Willamette. L. Rev. 479 (2010); Margot Lindsay, *Improving Courts' Public Outreach*, 85 Judicature 173 (2002); *Ingrid A. Nelson, More Judicial Outreach: 'Justice on Wheels' From the Supreme Court of Wisconsin*, 7 J. App. Pract. & Proc. 167 (2005). But *see also* Elisha Carol Savchak & Amanda Ross Edwards, *The New Tradition of Judicial Outreach: Survey Evidence from the States*, 52 Judges' J. 32 (2013).

[15] *See* Mary J. Deits & Lora E. Keenan, *Getting to Know Us: Judicial Outreach in Oregon*, 6 J. App. Pract. & Proc. 237 (2004); John Kirkendall, 7 *Habits of Highly Effective Judges*, 40 Judges' J. 30 (2001); G. Joseph Pierron, *Judicial Outreach about the Supreme Court*, 42 Judges' J. 36 (2003).

[16] It is notable that intermediate appellate court judges were especially willing to speak with us personally about their judicial outreach activities. We received several emails and many written solicitations for more in-depth interviews/conversations with judges at this level.

[17] *See*, e.g., Lerner, *supra* note 2; Franklin & Kosaki, *supra* note 2; Baum, *supra* note 5.

[18] There were a number of comments indicating similar thoughts; we provide just two examples. As another example, "Judicial outreach is critical, in my opinion; to be sure people know that they have access to justice and that they will have the opportunity to be heard by fair-minded individuals/jurists."

[19] *See* Lerner, *supra* note 2, at 129.

[20] *See* Caldeira & Gibson, *supra* note 7; James L. Gibson, Gregory A. Caldeira & Vanessa A. Baird, *On the Legitimacy of National High Courts*, 92 Am. Pol. Sci. Rev. 343 (1998).

[21] *See* McGregor, *supra* note 11; Esterling, *supra* note 6.

[22] *See* James L. Gibson, *'New-Style' Judicial Campaigns and the Legitimacy of State High Courts*, 71 J. Pol. 1285 (2009); James L. Gibson et al., *The Effects of Judicial Campaign Activity on the Legitimacy of Courts: A Survey-Based Experiment*, 64 Pol. Res. Q. 545 (2010).

[23] *See* Fruin, *supra* note 10; Am. Bar Ass'n, Perceptions of the U.S. Justice System (1999).

[24] *See* Fenno, *supra* note 1; Kernell, *supra* note 1; Mayhew, *supra* note 1.

[25] *See* Esterling, *supra* note 6, at 117.

[26] *See id.* at 113.

[27] *See* Gibson, Caldeira & Baird, *supra* note 20; James L. Gibson & Gregory A. Caldeira, *Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court*, 71 J. Pol. 429 (2009); Susan M. Olson & David A. Huth, *Explaining Public Attitudes Towards Local Courts*, 20 Just. Sys. J. 41 (1998); Herbert M. Kritzer & John Voelker, *Familiarity Breeds Respect: How Wisconsin Citizens View Their Courts*, 82 Judicature 59 (1998).

[28] *See* Am. Bar Ass'n, *supra* note 23.

[29] *See* Savchak & Edwards, *supra* note 14.