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President's Column- 2019

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President's Column

Robert J. Torres, Jr.

Dear colleagues and *Court Review* readers!

The State of State Courts is an annual national survey conducted on behalf of the National Center for State Courts, and I thought it would be interesting to share the poll results and analysis as we focus on critical issues facing our respective judiciaries. In addition to NCSC's regular tracking measures, this year's research also examined three areas identified by NCSC's advisory group as critical issues facing state courts across the country: cash bail reform, self-represented litigants, and online dispute resolution.

Overall views toward state courts have held steady, and in a few cases improved, despite a year of "widespread political attacks on judges, campaign accusations of special interest influence on the court system, and increasingly partisan battles over judicial elections and nominations." Since tracking began in 2012, voter confidence and trust in the state courts reached a new high, with governors and state legislatures ratings falling well below the courts.

Nevertheless, there are still concerns of bias, inefficiency, and a two-tiered justice system weighted against "regular" people. Mistrust of the courts runs high with African-American voters, who are least likely to agree the courts are *unbiased in their case decision* (37% agree, 59% disagree) and are *taking the needs of people into account* (41% agree, 56% disagree). There is a large gap between white and African-American voters on the system being *fair and impartial* (white: 66% describes, AA: 36% describes) and *providing equal justice for all* (white: 56% describes, AA: 29% describes). Voters, particularly non-white voters, believe more can be done by judges to understand the needs of those in their courtrooms. Concerning the critical issues identified by the advisory group, a majority recognizes that cash bail produces a two-tiered justice system, and the public strongly believes that judges should base pretrial release decisions on factors other than ability to pay. A broad majority also say courts are not doing enough for self-represented litigants, but there is trepidation in navigating the court system without an attorney. Online dispute resolution has some attractiveness as a cost-effective way to resolve smaller cases. Not surprisingly, younger voters with a higher educational attainment or incomes are more likely to opt for an online resource over the courthouse.

The combative and partisan confirmation hearings for Justice Brett Kavanaugh appear to have affected the public's confidence in the United States Supreme Court along party lines according to the NCSC survey. The Kavanaugh hearings and other recent events (#MeToo) also highlighted concerns about inappropriate conduct within the judicial branch that was the

focus of another report, the 2018 Year-End Report on the Federal Judiciary from Chief Justice John Roberts. The Chief Justice referenced that "inappropriate workplace conduct is not pervasive within the Judiciary, but it also is not limited to a few isolated instances involving law clerks" and that "misconduct, when it does occur, is more likely to take the form of incivility or disrespect than overt sexual harassment" and frequently goes unreported. Although the Judiciary does have key foundations in place for managing inappropriate behavior, more can be done to encourage all employees to report misconduct to improve the workplace environment. Chief Justice Roberts endorsed the Working Group's recommendations to revise the Judiciary's codes of conduct to define more clearly how to promote appropriate behavior, strengthen and streamline internal procedures surrounding misconduct, and expand training programs to raise awareness of and prevent inappropriate behavior throughout the judicial branch.

Chief Justice Roberts also recognized the efforts of judiciary employees responding to natural disasters, including this year's "floods in Florida and North Carolina, Super Typhoon Yutu in the Northern Mariana Islands, the Alaska earthquake that damaged the Anchorage courthouse, and the new wildfires in Northern California." I serve as pro tempore Justice in the Northern Mariana Islands (NMI), and Super Typhoon Yutu hit close to home. Super Typhoon Yutu was the strongest storm on record to ever hit U.S. soil and tied for the most powerful storm on earth in 2018, according to the National Oceanic and Atmospheric Administration. Despite their own personal adversities, the judiciary employees of the CNMI stepped up to the plate to ensure continuity of operations. Recovery efforts are ongoing with courts spread over various temporary locations throughout the islands while the House of Justice (Guma' Hustisia) undergoes repairs.

In closing, we all recognize that AJA is the Voice of the Judiciary®, providing leadership and speaking for judges nationally on critical issues, such as judicial independence. The rare public rebuke of President Trump by Chief Justice Roberts when the President criticized a judge for having improper political motivations, and referred to him as an "Obama judge," appropriately summarizes our mission. "We do not have Obama judges or Trump judges, Bush judges or Clinton judges," Chief Justice Roberts said in a statement given to the Associated Press. "What we have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them. That independent judiciary is something we should all be thankful for." I'm thankful for all of you.

