Informed Voters Project

Talking With Voters about America’s Courts
About the Informed Voters Project and this Guide

The National Association of Women Judges’ “Informed Voters - Fair Judges” project is a nonpartisan voter education project developed to increase citizens’ knowledge of our judicial system. The need for the project arose out of NAWJ’s recognition that across the nation, the ability of our courts to deliver on their fundamental promise of justice for all is being threatened by the politicization of judicial races by powerful special interests. This threat is compounded by attempts to impose improper political interference or pressure on judges once on the bench. The success or failure of special interest efforts to weaken the courts rests on their ability to mislead voters, who often lack sufficient knowledge about the courts and their role in our American tripartite system of government.

The mission of the Informed Voters project is to help fill this knowledge gap, and this handbook is designed to assist volunteer educators in communicating with the public and press about the importance of protecting our courts from special interest pressures and the critical role informed voters play in this process. You will find talking points and messaging guidance based on the unique message set developed by consensus among members of the Informed Voters Project Messaging Committee, as well as templates for producing communications materials such as op-eds and letters to the editor.
Our Central Message:
Fair and Impartial Courts Are a Sacred Tenet of Our Democracy

At NAWJ, we believe that fair and impartial courts are indispensable to the functioning of American democracy. Our central message, “Fair and impartial courts are a sacred tenet of our democracy,” should form the foundation for all communications efforts. Two closely related concepts may also be articulated:

1. Our system of checks and balances will fail if we allow special interests to gain influence over the selection and retention of judges, and
2. Voters can ensure that we have fair courts and equal justice for all by exercising an informed vote for judges.

In communicating this message, it is helpful to remember that a bipartisan majority of voters place a high value on courts as fair and impartial protectors of our rights, and as entities independent of politics. The nonpartisan organization Justice at Stake, in its publication “Speak to American Values,” reported that 84 percent of voters strongly agreed with the statement “We need strong courts that are free from political influence.” Know that when you advance this message, you are tapping into a deeply held belief of the public, and are appealing to a core American value.

Supporting Messages
The Informed Voters project messaging committee developed four key supporting messages that are related to our central message about the role of fair and impartial courts. These address the role of the courts in our lives, the qualities that make a good judge, the importance of voter education, and the need to protect courts from political attacks. These last two points should not be overlooked; although voters are inclined to support independent courts, they will not be moved to action absent awareness of an actual risk to fair courts. So it is important to remind them that the independence of our courts is being threatened.

The four supporting messages are as follows:

1. Our courts should be celebrated as the one branch apart from politics.
2. Judges should be evaluated on their character, integrity, impartiality and willingness to decide case based on the law and the evidence presented.
3. Voters must be informed about special interest efforts to politicize the courts.
4. The courts must be protected from those who would politicize them.
Talking Points on Key Messages

For each key supporting message, there are a handful of subordinate messages that may be used as talking points. These will help you develop speeches and respond to media questions.

OUR COURTS SHOULD BE CELEBRATED AS THE ONE BRANCH APART FROM POLITICS.

• Our Founding Fathers created our courts to stand apart from politics in order to uphold the Constitution.
• Strong courts are an important part of our democracy and provide essential balance in our government.
• Americans depend on strong courts to uphold the Constitution, and to rule on every case fairly and impartially.
• American democracy depends on the People’s faith in the courts and the courts’ guarantee of fairness, impartiality and equal protection for all.
• Politics and special interest attacks have no place in the courts.

JUDGES SHOULD BE EVALUATED ON THEIR CHARACTER AND INTEGRITY.

• How judges are elected varies from state to state, but all systems share one common goal – to ensure that those on the bench honor their oath to hand out fair, impartial and equal justice under the law.
• BEFORE the election cycle begins, voters must understand the role of the courts and the qualities they should consider when evaluating judges.
• When voters understand what judges do and how the courts are supposed to work, they are more likely to vote for judges possessing character, integrity, impartiality and a willingness to decide cases on the evidence presented and the law, not on political or special interest agendas or out of a fear of unpopularity.
• If we support or oppose judges based on the popularity of their decisions, the threat of political retribution will undermine fairness, equality and impartiality in our courts.

VOTERS MUST BE INFORMED ABOUT SPECIAL INTEREST EFFORTS TO POLITICIZE THE COURTS.

• Voters who know that special interest attacks and political interference or pressures have no place in the courts will reject efforts to politicize judicial races.
• Celebrating the courts, while simultaneously informing citizens of the unprecedented threats courts face today will energize voters to get involved and exercise an informed vote.

THE COURTS MUST BE PROTECTED FROM THOSE WHO WOULD POLITICIZE THEM.

• Fair and impartial courts should not be threatened through politicization of judicial races by special interests.
• Fair and impartial courts protect the poor, the minority, and the unpopular.
• By standing up for all, the courts are vulnerable to being politicized by those whom they hold in check.
• To protect access to justice for all and our rights under the Constitution, we must defend fair and impartial courts from special interest attacks and improper political interference and pressures.
A Few Dos and Don’ts for Speakers
The Justice at Stake messaging guide “Speak to American Values” offers some helpful advice for communicating about fair-courts issues. A few key dos and don’ts have been adapted from the guide and are summarized below.

Do

• **DO** make the case for strong courts by evoking values and threats to the courts from politicians and special interests

• **DO** build knowledge of the judiciary

• **DO** talk about:
  • courts as part of our democracy
  • balance of power/checks and balances
  • fair and impartial courts
  • courts free from political interference

Don’t

• **DON’T** get distracted by attacks based on current issues: responses to specific questions should rely on the overall message frame (see Tips and Techniques for Staying on Message, below)

Supporting Messages
The Informed Voters project does not endorse any candidate; take a position on any state’s judicial selection, election or retention system; debate hot button social issues; or express any opinion upon efforts to change a state’s judicial selection or election system, either politically or through a ballot proposition or initiative. Voters may feel strongly about such matters and may seek to engage Informed Voters speakers in conversation about them. It is important to stay “on message.” Consult the ABA publications “Countering the Critics” and “Countering the Critics II” and the accompanying video contained in your state coordinating committee materials for help. You may also refer to these quick tips and techniques for assistance.

• Develop your talking points in advance and anticipate any tough questions that might come your way.

• Familiarize yourself with the “pivot” technique that allows you to “bridge” from an unfriendly question to the Informed Voters messages, and practice it.

• Control the frame. Do not ignore or repeat the question. Instead, use the question as a starting point to get to the Informed Voters’ core message. Pause to think how the question relates to the Informed Voters’ overall goals to promote fair and impartial courts and justice free from special interests, and then bridge back to key messages.

• Prepare a couple of good segue phrases, in advance, that will assist you in executing the “pivot” technique without sounding as if your answer is a non-sequitur. Consider such phrases as:

  • “I appreciate your concerns, and what is important to remember is …”

  • “NAWJ does not take a position on any specific judicial candidate. We are urging voters to learn all they can about judges on the ballot to make an informed decision. Our primary goal is to have a dialogue with you about the role of the courts and the qualities we all want in judges…”

  • “Fair and impartial courts should not be threatened through politicization of judicial races by ANY special interest…”

• Stay calm, breathe, and smile! If you are feeling pressured or believe you might misspeak, PAUSE, THINK, and then pivot and bridge.

• End in control and on a powerful note! Prepare a “second close” summing up the important project points for the conclusion of any Q &A period or, if the last question ends “on message” smile and say “Thank you!”
Letter to the Editor
A letter to the editor (LTE) must be short (200 words or less) and should refer to a news story recently covered in the paper. Timeliness is essential: you will want to submit your letter as soon as possible, as publications generally will run letters within a week of the original news story.

Unlike op-eds, letters to the editor may be submitted to multiple newspapers at once. Pay close attention to the newspaper’s guidelines for submitting LTEs, which can be found on the publication’s website. Wherever possible, use concrete facts and statistics to bolster your arguments. The Letters Page Editor may call you or e-mail you to confirm that the letter is yours and alert you to plans for publication, before your letter runs.

Sample letter

To the Editor,

This week’s article highlighting the role of special interests in judicial elections (“Outside Groups Try to Frame Debate in Judicial Race”) points to a serious and growing problem: the politicization of judicial races by deep-pocketed special interests, which threatens fair and impartial courts. The data are telling: in 2011-12 alone, non-candidate spending on state high court races was a record $24.1 million, 43 percent of the total spent. In [state], it was $X in the last judicial election year.

This spending creates the unfortunate impression that justice is for sale. In addition, the attack ads and smear tactics it pays for become substitutes for real voter education. This is not what the Founding Fathers, who created our courts to uphold the Constitution and stand apart from politics, intended.

Voters need to see this meddling for what it is. Educating citizens about the unique role of courts in our democracy, so they can cast an informed vote, is our best defense against special interest attacks. Voters must understand that qualifications for a judge include character, integrity and impartiality, not political persuasion, avoidance of “unpopular” decisions, or the ability to appease powerful political backers.

Sincerely,
Jane Doe
Writing an Op-Ed

In an era in which blogs and social media offer an opportunity to transmit “unfiltered” messaging straight to the public, some believe that traditional op-ed writing is obsolete or less desirable. But unless your blog has an extensive following, publishing an op-ed in your local paper will gain far more exposure for your message than your online communication. Readers also understand that op-eds must meet certain standards for publication, and so an op-ed in a respected paper attains a level of credibility that online communications do not automatically command.

Writing and placing op-eds is challenging work, but the impact can be worth it. Consider your timing; if your op-ed has a news “hook” such as an upcoming election, it will be considered more newsworthy. Make sure you are aware of the word limitations for the publication you are targeting (generally between 600-750), and familiarize yourself with the paper’s submission guidelines. Some papers insist you submit your op-ed through an online form; others welcome an e-mail and accompanying call directly to the op-ed page editor. One thing you should not do is submit your original op-ed to more than one paper at once, or post it on a blog or on your website. Most publications will insist that your submission be unique to them.

Sample Op-Ed

In an era in which hyper-partisanship carries the day, it may be too much to hope that our courts could remain safe from political attacks. Even so, the sheer venom of some of these attacks comes as a surprise. When judges are called “black-robed masters” by national political figures, when (ostensibly) serious proposals are made to haul judges off to jail for unpopular rulings, and when TV airwaves are jammed with harsh attack ads tearing down courts and the judges who sit on them for unpopular rulings issued under constitutions and laws, something has gone sideways with our understanding of the courts and the role they play in our democracy.

Politicians and groups with anti-court agendas have become very fond of saying the courts must be held accountable. We couldn’t agree more. But the courts’ accountability is to the law and the Constitution, not to individuals, parties or politicians - and definitely not to campaign contributors.

Fair and impartial courts protect the poor, the unpopular, those without political power and those who are in a minority in our society. American democracy depends on our faith in the courts’ guarantee of fairness, impartiality and equal protection for us all.

But when voters hear these harsh anti-court attacks, their faith falters. What’s more, these messages are drowning out more reasonable voices, because this is an arena in which the ones with the most money get the biggest megaphone. That applies not only to big-name politicians with their own ambitions, but more and more to special interest groups.
who see state courts as the avenue for advancing their political or economic agendas. And these days, the money spent on state judicial elections by these outside interests is skyrocketing as never before.

In 2011-12, out of a total of more than $56 million spent on state supreme court races, a record $24.1 million was spent by non-candidates. Of that, $20.7 million was spent on TV air time, much of it for ads that deliberately mislead the public. It’s time to fight back.

Voters must become savvy, skeptical analysts of the negative attacks they see and hear: Who is behind them? Who is paying for them? What do they stand to gain? Furthermore, all of us are responsible for carrying the message that special interest pressure and political attacks have no place in our courts, which represent the one branch of our government that was intended to stand apart from politics. That means conveying this understanding about the role of courts in our democracy to our neighbors, our colleagues, and our children.

It also means educating ourselves about the qualities that should be evaluated when we vote for our judges. These qualities are character, integrity, impartiality, fairness, and the willingness to decide cases based on the evidence and the law, not out of a fear of unpopularity or because the judge is beholden to some special interest. And it means looking beyond ourselves and our immediate circles, and supporting voter education in our communities. Polls repeatedly indicate the gaps in civics education in our society, and many adults are not well informed about the vital role of our courts. Here in [location], [name of Informed Voters partner group] offers this education. Most of us belong to an organization or group that could benefit from it.

All of us depend on fair courts to provide the stability that allows our businesses and civic institutions to function day-to-day. Even if we hope never to find ourselves in court, the day may come when we, a friend or a relative, will want and need that personal assurance of justice for all that is understood to be the bedrock of our court system. That is why we must wake up to special interest efforts to politicize the courts and work to beat them back with education and awareness. Our courts, once called “the crown jewel of our democracy” by the late Chief Justice William Rehnquist, cannot safeguard our rights if we fail to safeguard them.
A Word about Social Media

One of the simplest ways to engage your social media networks in supporting fair courts and voter education is to share links to media articles, reports, photos, cartoons and other media that highlight the issue. Remember to use Twitter to retweet the comments of advocates or reporters whose work is helpful in illuminating the issue. Use of video and photos is a best practice for Facebook posts, and will make your posts more engaging.

In writing text for Facebook posts, less is more. You can also experiment with creating your own infographics and memes, combining images and text, to illustrate your posts.

Conclusion

Public opinion surveys show that voters firmly reject the notion that courts should be beholden to politicians or special interests, and that they value strong courts that are free from political interference. Advocates and educators can confidently take a stand in favor of protecting our courts and insulating judges from these influences, knowing that voters are inclined to gravitate toward these very important concepts once they hear our message. Moreover, we can be confident that our educational work through the Informed Voters project is fundamental to the preservation of key element of our democracy: fair and impartial courts that provide access to justice for us all.