



**Statement Before the**

**National Commission on Military, National, and Public Service**

*Creating an Expectation of Service:  
Civic Education as a National Security Imperative*

Written Testimony by:

**Suzanne Spaulding and Elizabeth Rindskopf Parker**

on behalf of

**The Defending Democratic Institutions (DDI) Project at  
Center for Strategic and International Studies (CSIS)**

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## Summary

Thank you for the opportunity to comment on the important work of the National Commission on Military, National and Public Service. We<sup>1</sup> are especially heartened by the Commission's finding in its 2019 Interim Report that "civic engagement and service are critical to the health of our republic."<sup>2</sup> We agree and believe that an increased emphasis on civic education cannot come soon enough. As discussed below, we enthusiastically support the recommendations of the Commission's Interim Report on ways to reinvigorate civic education.<sup>3</sup> Informal discussions with staff have raised additional ideas, with which we agree and have been impressed. We comment on those as well.

Over the last three years with our colleagues at the Center for Strategic and International Studies (CSIS) we have explored how malicious actors, particularly those supported by nation states such as Russia, are using cyber operations and online social media disinformation campaigns to undermine the foundations of democratic nations.<sup>4</sup> Beginning with efforts in Eastern Europe, they have moved to Western Europe and are now working to actively create situations and promote narratives that attack all components of the American democracy, not only its election systems, and characterize them as inept, corrupt, and manipulated. Their goal is to convince Americans that democracy is a hypocritical system, not worthy of their engagement and support. In the words of the hashtag they promoted in the midterm elections in 2018, they want Americans to #WalkAway.

While our research shows that our adversaries, foreign and domestic alike, have grown adept at using technology to undermine and erode public trust in *all* democratic institutions, our particular focus has been on the judicial system. Like elections, our courts depend upon the public's trust in the legitimacy of the process for the outcomes to be respected. We have identified and documented an evolving set of threats confronting courts and judges.<sup>5</sup> What we have learned in this work has been disturbing. To counter these threats, we need to build institutional and public resilience.

The starting point for preventing, deterring, and mitigating the effectiveness of active measures designed to attack courts and judges requires that the public understand the role our judicial branch plays in our constitutional system. Unfortunately, our research shows that public knowledge of the judicial branch is limited. The Interim Report's observation that only 26% of Americans can name all three branches of

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<sup>1</sup> Suzanne Spaulding and Elizabeth Rindskopf Parker are lawyers who have been professionally involved in national security law and policy for many decades. Both have chaired the American Bar Association's Standing Committee on Law and National Security (SCOLANS) and continue to be actively involved in its activities. Suzanne Spaulding is the Director of the Defending Democratic Institutions Project at CSIS. She previously served as the Undersecretary for the National Protection and Programs Directorate and the Department of Homeland Security (DHS) and has had extensive national security experience with various Congressional staffs, committees and commissions, as well as the CIA Office of General Counsel. She currently sits on the Congressional Cyberspace Solarium Commission. Elizabeth Rindskopf Parker served as General Counsel of both the National Security Agency (NSA) and the Central Intelligence Agency (CIA), and for a decade as Dean of the University of the Pacific, McGeorge School of Law and later Executive Director of the State Bar of California. Suzanne Spaulding and Elizabeth Rindskopf Parker submit this testimony on behalf of the Defending Democratic Institutions (DDI) Project at the Center for Strategic and International Studies (CSIS).

<sup>2</sup> "Interim Report: A Report to the American People, the Congress, and the President." *The National Commission on Military, National, and Public Service*. January 2019. P.4. <https://www.inspire2serve.gov/NCOS%20Interim%20Report.pdf>

<sup>3</sup> Interim Report (2019), p. 17.

<sup>4</sup> Heather Conley et al. "The Kremlin Playbook." *Center for Strategic and International Studies*. October 13, 2016; Heather Conley et al. "The Kremlin Playbook 2: The Enablers." *Center for Strategic and International Studies*. March 27, 2019; Suzanne Spaulding et al. "Countering Adversary Threats to Democratic Institutions." *Center for Strategic and International Studies*. February 14, 2018.

<sup>5</sup> Suzanne Spaulding et al. "Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System." *Center for Strategic and International Studies*. May 1, 2019. <https://www.csis.org/analysis/beyond-ballot-how-kremlin-works-undermine-us-justice-system>

government<sup>6</sup> captures this fundamental problem. Working with knowledgeable colleagues committed to civic education reform, we have learned that countless additional surveys further document the public’s woeful lack of civic knowledge.<sup>7</sup> In sum, there is overwhelming evidence to support the Interim Report’s view: “too few young people receive a solid foundation of civic knowledge.” In fact, we believe that this problem extends beyond our youth to the public at large, a significant portion of whom have been disadvantaged by the decline in attention to civic education over many decades.

The impact of this lack in civic education and engagement is far reaching. As the Commission notes, without robust civic education, civic health is compromised in many ways. In our view, when inadequate civic education and engagement is considered in the context of the disinformation threat environment we have documented, the problem rises to the level of a national security issue. Thus, we were heartened to note that in describing the first of its two primary tasks, the Commission’s Interim Report recognizes this by asking for us the central question “...whether certain changes might enhance the existing system to meet evolving national security needs.” The Commission has correctly identified a critical issue: the national security vulnerability our nation faces from inadequate civic knowledge in the current threat environment.

We believe that effective and engaging civic education is a key answer to the Commission’s question. It is a critical tool needed to protect against a constantly changing threat landscape. Efforts to erode public confidence in all democratic institutions, and particularly our court system, will continue with increasingly sophisticated disinformation attacks. Only through a robust civic education effort can we grow both the institutional and societal resilience needed to counter these attacks.

In brief, our conclusion is that improving civic education has become a national security imperative. The work of the Commission to recommend action to address the inadequate state of civic education nationally could not be more timely, or more urgent.

### **Support for our Conclusion: The Defending Democratic Institutions (DDI) Project**

The conclusions we present here are based on work begun in 2016, when one of our authors witnessed firsthand at the Department of Homeland Security (DHS) the extent to which foreign nations were attempting to use influence operations to undermine democracy. As a result, the Center for Strategic and International Studies (CSIS) created the Defending Democratic Institutions (DDI) project to investigate further the scope and nature of these threats.

We began with a review of Russia’s long-term campaign to undermine liberal democracies in the West. Although its actions in Eastern Europe had been well documented for decades,<sup>8</sup> intelligence community assessments confirm that in recent years, the Kremlin has been increasingly bold in its attempts to intervene in Western European nations. Now their efforts have moved aggressively to the United States. As lawyers, we are especially concerned about Russian efforts to undermine the U.S. justice system—an

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<sup>6</sup> Interim Report (2019), p. 13.

<sup>7</sup> Countless surveys support this conclusion. For example, in January 2017, the Center for Information and Research on Civic Learning and Engagement at Tufts University reported that 35% of Millennials affirmatively stated that they are losing faith in democracy, and only 25% of Millennials were confident about American democracy (<https://civicyouth.org/millennials-deeply-uncertain-about-democracy-post-election-but-few-believe-it-is-in-peril/>). And in a Scott Rasmussen report from earlier this year, 43% of voters nationwide stated that they at least somewhat agreed with the following statement: *The Constitution made sense in the 18<sup>th</sup> century, but it is irrelevant in the 21<sup>st</sup> century* (<https://scottrasmussen.com/43-consider-u-s-constitution-irrelevant-in-21st-century/>).

<sup>8</sup> Kremlin Playbook 1 and 2.

understudied, but vitally important pillar of our democracy and the foundation for our national commitment to the rule of law. We found that the judicial system, too, has become a target of the Kremlin's broad campaign.

Over the last two years, we archived and analyzed the disinformation operations aimed at the justice system, and published articles and reports publicly detailing the nature of the threat.<sup>9</sup> Further, in collaboration with the American Bar Association's Standing Committee on Law and National Security (SCOLANS)<sup>10 11</sup>, we are working closely with judges, prosecutors, court staff, along with other legal professionals, to develop training workshops and related tools to protect the courts from cyber intrusions and cyber-enabled disinformation operations.<sup>12</sup> In addition, we are developing plans for a rapid response network to counter disinformation campaigns.

However, as our work has continued, we have concluded that the response mechanisms we advocate can succeed only insofar as the public also understands and values an independent and impartial judicial system as a critical structural component of our democracy—and uses that knowledge to hold our institutions, including the justice system itself, accountable. No amount of cyber protections and counter-messaging can protect the nation's justice system if the public does not appreciate how it works to support the rule of law.

### **The Importance of Institutional and Societal Resilience**

For understandable reasons, judges have largely not considered themselves, or their functions, as lucrative targets for hostile foreign governments. Judges have traditionally been held in high regard and publicly trusted. Further, judges are usually confined to working on domestic issues, not foreign ones. However, the divisiveness that has taken hold of our country creates an environment for eroding that public regard and trust. Limited awareness about their appeal as targets of disinformation, combined with the limited funding for court computer security, has made judges and our courts vulnerable targets. In short, as was emphasized by National Center for State Courts President Mary McQueen on the need for promoting civic education in light of modern disinformation threats: “we’ve got to deal with this threat now.”<sup>13</sup>

Our effort is to use research, outreach, and education to build awareness among judges and court personnel, as well as the general public, about the likelihood of disinformation attacks, which the current international national security climate warrants.

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<sup>9</sup> Suzanne Spaulding and Harvey Rishikof. “How Putin Works to Weaken Faith in the Rule of Law and Our Justice System.” *Lawfare*. September 17, 2018. <https://www.lawfareblog.com/how-putin-works-weaken-faith-rule-law-and-our-justice-system>

<sup>10</sup> The American Bar Association's Standing Committee on Law and National Security (SCOLANS) has also submitted written testimony to this Commission on the importance of recognizing civic education as a national security imperative.

<sup>11</sup> At SCOLANS, Dean Harvey Rishikof has joined us in supporting our work. Dean Rishikof currently serves as the chair of the Advisory Committee for SCOLANS and on the Board of Visitors for the National Intelligence University. He is a visiting professor at Temple Law School this year, was formerly dean and professor of law and national security studies at the National War College.

<sup>12</sup> At SCOLANS Dean Harvey Rishikof is developing response mechanisms for courts and judges when they become the target of disinformation attacks.

<sup>13</sup> On May 1<sup>st</sup>, the DDI project hosted a Law Day Event. One of the panels was on ‘Building Institutional and Societal Resilience,’ where civic education was the central point of conversation. The panelists were in agreement that in order to build overall resilience, there is a need for a stronger emphasis on civic education. <https://www.csis.org/events/democracy-and-justice-age-disinformation>

In our most recent CSIS report, “Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System,” we identified four narrative frames that Russia routinely promotes to discredit the work of the U.S. justice system:

- The justice system tolerates, protects, and covers up crimes committed by immigrants;
- The justice system operationalizes the institutionally racist and corrupt police state;
- The justice system directly supports and enables corporate corruption; and
- The justice system is a tool of the political elite.

One of our primary findings was that Russia works to identify and then exploit legitimate institutional and societal problems, not for the purpose of improvement, but to more effectively promote its disinformation campaign using the narratives above. Legal cases and incidents thematically relevant to the four frames are ripe for exploitation because they are inherently sensationalist and divisive topics. Moreover, legal procedures often dictate that many details in these cases not be publicly disclosed, creating an opportunity for the insertion of disinformation into social media reporting. For instance, immigrant rape cases involving minors have been exploited by Russian media because case details are bound by privacy laws intended to protect the minors involved. When law enforcement and legal professionals are unable to comment on the facts of the case, malicious actors are able to spin facts to make the justice system appear to be corrupt and lacking in transparency. Judicial restraint in commenting on such matters creates situations with little to no possibility for ‘pushback,’ creating further opportunity for distorting the facts.

Recognizing these specific threats and vulnerabilities unique to the justice system, we have worked to support the institutional resilience of the courts. Over the last two years, the DDI team has conducted and engaged in over 75 interviews, roundtable discussions, and briefings to build awareness by federal and state judges, court personnel and members of the bar to the threats courts and judges face from those who seek to undermine our judicial system.

Additionally, we have led cybersecurity and crisis communications workshops for judges and court staff. We are aware that court funding for technology is often extremely limited, and that judges themselves may not fully understand the risks of individual choice with regard to cybersecurity. This makes it important that all those involved with court functions understand the importance of cyber hygiene ‘best practices’ in the current threat environment and also have response plans in place to help anticipate and respond to cyberattacks or online disinformation campaigns.

But resilience is a two-way street. As we began efforts to educate the bench and bar on the threat of disinformation, the importance of better computer security, and the need to be prepared with an adequate response plan to disinformation attacks, we wondered if the public was prepared to receive these messages. This raised an important question: does the public understand the importance and the special role of the judiciary?

To ascertain the state of public understanding we reached out to colleagues deeply engaged in work to improve attention to civic education.<sup>14</sup> We have been greatly concerned at what we have learned. Countless surveys make clear that the level of public understanding about civics issues is at an historic low. We believe reasons for this lack of understanding directly correlate to a failure to educate our

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<sup>14</sup> As noted, we are particularly indebted to the generous assistance of Ted McConnell, Executive Director, Campaign for the Civic Mission of Schools, in educating us about current civic education issues and reform efforts at the national and state levels. We have also taken advantage of the research of numerous other organizations, notably that of Louise Dube at I-Civics. Earlier Dean Parker was also a member of the California Commission for Impartial Courts where she first became aware of problems with civic education that have now been documented as a national problem.

students about the structure and importance of democratic institutions like the justice system. Further, as was noted by Judge Jeremy Fogel, Former U.S. District Judge for the Northern District of California, current efforts in civics education seem “very broad, but it hasn’t been very deep.”<sup>15</sup> More needs to be done to ensure civics education grows in both reach *and* content.

We have learned that civic education, and the need to prepare students and teachers to engage important topics in a meaningful way, has taken a backseat to other education topics, both in terms of time, attention and funding. The end result, we believe, is that institutions like the justice system, heavily dependent on public understanding and the trust thus developed, are especially vulnerable to challenges to fulfill their mandates in upholding critical parts of the democracy.

In the current disinformation environment, it is easier to see how inadequate civic education may pose national security concerns. To the credit of our judges, many of them have long recognized that the public lacks an effective understanding about the judicial system, and have attempted to get involved in civic education. Mary McQueen from the National Center of State Courts (NCSC) recognizes that with the internet there has been a “dramatic increase in the demand of the public for information about the courts”—in other words, a demand and need for more civic education. As a result, the NCSC has led numerous court-initiated civic engagement and outreach programs with the hope of creating “experiential opportunities...[and] applying civics education in ways that are crucially important.”<sup>16</sup>

Their leadership in efforts to address this problem has been impressive. Thus Judges often serve as key allies to the civic education community and work as trusted messengers in their respective locales with the goal of informing the public about the judiciary and its function. Our goal is to leverage such networks of judges, members of the bar and civic leaders to develop a rapid response network for confronting disinformation with the goal not only of countering online disinformation campaigns, but also providing civic training to the public. We recognize that judges cannot be expected to shoulder improving civic education on their own. Moreover, these efforts need to be leveraged beyond what volunteers alone can achieve. We need to adopt new policy requirements at the state and national level.

To clarify, we do not expect the public to become fully-versed in the minutiae of court proceedings. Rather, we want to instill in our public an understanding of the role of judges and courts in our justice system in America. We recognize that courts often are, and will continue to be, called upon to decide difficult and sometimes political issues in the coming years. The importance of public understanding about their impartiality and commitment to the rule of law in such decisions will be critical—as will the commitment of judges to live up to those aspirations and the engagement of the public to hold them accountable. As the foundation for our commitment to the rule of law, it is essential that we prioritize the preservation of public trust in the justice system with the utmost sense of urgency. Civic education is a necessary first step.

As the same time, it is important to acknowledge that our justice system, like all institutions in a democracy, is fallible; when problems exist, transparency and responsible criticism are critical to achieving needed improvement. But this is the opposite of the aims of our adversaries who urge that the justice system be discounted as irreparably damaged. To the contrary, our justice system and its unwavering commitment to the rule of law is a core value of the United States and the envy of many nations. As was eloquently stated by Jeff Minear, Counselor to the Chief Justice of the United States, at

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<sup>15</sup> Judge Jeremy Fogel, Executive Director of the Berkeley Judicial Institute and Former U.S. District Judge for the Northern District of California, CSIS Law Day Event (May 1<sup>st</sup>, 2019).

<sup>16</sup> Mary McQueen, President of the National Center for State Courts, CSIS Law Day Event (May 1, 2019).

our CSIS Law Day event, “we have the strongest and most admirable judiciary in the world. We ought not to lose sight of the example we set for the rest of the world.”<sup>17</sup>

It is imperative that the American people understand this and do their part in preserving the institutional strength of the judicial system.

### **Specific Steps for Building Resilience**

The four narratives above have been designed to attack the justice system, one important component of our democratic system. They are, however, only one part of the larger story Russia attempts to promote: democracies are so damaged and unsalvageable that not only should people not trust democratic institutions, but they should disengage from the democratic civil society altogether.

Informed by the 2018 Senate-commissioned reports on Russian disinformation operations, we also explored the rationale behind efforts of Russian-backed operatives to infiltrate minority and affinity communities online. We learned that the goal was to negatively reinforce group identity at the expense of a shared national identity.<sup>18</sup> Faux social media accounts were created to drive wedges between individuals in the society, thereby instigating unrest, and in the process, delegitimizing the real grievances of those that associate with these different groups. And, at the same time, eroding confidence in institutional response to the legitimate grievances identified. In the end, a loss of faith in the entire democratic system of government was the objective.

To build resilience for our democratic system and all its components, including the justice system, there must be sufficient public understanding of each institution to inform skepticism about disinformation that spreads lies or seeks to use specific incidents as a blanket indictment of democracy and its institutions. In short, there must be *societal resilience*. For this, traditional civic education is required. The public needs to be informed of how their government operates and why.

Here the Commission’s Interim Report offers several useful recommendations. We were particularly encouraged by the following recommendations, designed for “reinvigorating civic education:”

- “Adopt national standards or a national civic education *requirement*” [emphasis added];
- Encourage or require schools to include an experiential component...;
- Report civics metrics as a separate subject on the nation’s report card;
- Prioritize and fund professional developments for civics teachers;
- Encourage states and local school boards to implement best practices in effective civic education, covering elementary, middle and high school;
- Offer existing citizenship and civic knowledge resources...to any educators or schools for free.”<sup>19</sup>

Additionally, we would like offer enthusiastic support for the following recommendations outlined in the Commission’s recent staff memorandum on Civic Education:

- “Encourage institutions of higher education (IHEs) to take steps to improve the civic health of their communities in the nation;
- Demonstrate a commitment to civic education” *via partnerships*;
- “Create a federal grant program to support civic education initiatives

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<sup>17</sup> Jeff Minear, Counselor to the Chief Justice of the United States, CSIS Law Day Event (May 1<sup>st</sup>, 2019).

<sup>18</sup> Suzanne Spaulding et al. “Why Putin Targets Minorities.” *Center for Strategic and International Studies*. December 21, 2018. <https://www.csis.org/analysis/why-putin-targets-minorities>

<sup>19</sup> Interim Report (2019), p. 17.

- Create an institutional home for federal civic education initiatives.”<sup>20</sup>

These suggestions, all of which we support, are important steps to creating the societal resilience we must have to support our republic and the democratic principles on which it rests.

## **Conclusion**

As one critical component of its important mandate to address the importance of public service, broadly defined, the Commission has set forth a powerful case to support increased attention to promoting civic education and engagement. Our research reinforces the Commission’s views and recommendations but adds an important additional national security urgency. The need for societal resilience in the face of increasing threats from foreign adversary disinformation operations has been well-documented and is no longer in question. Increased attention to civic education offers a vitally important response to this national security threat. Moreover, civic education should encourage essential civic engagement, including public service as judges, prosecutors, and defense attorneys—in civilian and military contexts—who are committed to independent and impartial execution of the laws consistent with our shared values, and advocates who work to hold them accountable to those aspirations. We thank the Commission for its leadership. If adopted, we believe the recommendations contained in the Commission’s 2019 Interim Report, particularly those focused on reinvigorating civic education, will begin the process of creating the societal resilience our nation needs at a time of evolving disinformation campaigns.

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<sup>20</sup> “Staff Memorandum: Civic Education.” *The National Commission on Military, National, and Public Service*. June 20, 2019. <https://www.inspire2serve.gov/news-events/creating-expectation-service-hearing-civic-education-and-service-schools>