The Latest Messaging Research by Voices for Civil Justice

By Elizabeth Arledge, Deputy Director[1]
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Starting in 2013, Voices for Civil Justice has commissioned several rounds of public opinion research on civil legal aid and the civil justice system. All of the research was made possible with the generous support of the Public Welfare Foundation. This article focuses on highlights of the report of Voices' 2017 messaging research, Building a Civil Justice System that Delivers Justice for All.[2]

When the team at Voices for Civil Justice decided to commission its latest round of public opinion/messaging research, we knew a few things already.

From our initial research in 2013, we knew that civil legal aid is largely unknown among American voters,[3] yet, when they understand what civil legal aid is they are highly supportive (on par with motherhood and apple pie). We also knew that voters embrace a broad definition of civil legal aid, ranging from individual representation to self-help tools.

In 2017, it was time to check in on those and other findings, to build on them, and to learn what messaging strategies would work best today.

We were also eager to gauge the voting public's appetite for civil justice reform.

The results are very good news for civil legal aid advocates. But — as always — *this new knowledge will work only if we use it.*

Like our earlier research, the latest study was led by Lake Research Partners[4] — this time with the involvement of a cognitive linguist, Anat Shenker Osorio.[5] The addition of language analysis informed our choices about what messages to test, and gave an added layer of understanding to the findings.

The results are from an online survey of 800 likely 2018 voters, plus a sample of civil justice "activists." The likely voters fell into three categories. Here's a very broad overview of what we learned about them:

Base (40 percent of sample)
- Strongly support increasing state funding to build a civil justice system that allows all people who need it effective assistance for their civil legal problems.
- Disagree with the idea that more funding for civil legal aid will contribute to more frivolous law suits.
- Extremely strong support for the concepts of "equal justice under law" and "justice for all" as a right for all Americans.
- Tend to identify as Democrats.

Opposition (24 percent of sample)
- Largely opposed to or undecided about whether their state should increase funding for a more accessible civil justice system.
- Agree that it is becoming more common for Americans to threaten legal action when things go wrong, and that free legal help will only contribute to this problem.
- Believe that states would be better off investing resources in other areas (e.g., infrastructure) than increasing funding for civil legal aid.
- Tend to identify as Republican, and to be white and college educated.

Persuadables (36 percent of sample)
- Support increasing state funding to build a more accessible civil justice system, though with much less intensity than the base.
- Also agree with the opposition argument that funds for civil legal aid might be spent better elsewhere.[6]
- Tend to be younger, slightly less white, more southern, and more college educated.

We also surveyed 278 *activists* who, not surprisingly:
- Strongly support increasing state funding to build a more accessible civil justice system.
- Disagree with all arguments pushed by the opposition.

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■ Overwhelmingly white, female, college-educated and identify as Democrats.
   (Why spend precious resources surveying "the choir"? Because even the best messages are only helpful if activists like them well enough to use them.)

Drilling a Little Deeper — Key Findings

The findings are very encouraging:

■ 84 percent of voters believe it is important for our democracy to ensure everyone has access to the civil justice system — an enormous level of support, indicating this is a core value on which to build support for civil justice reform and civil legal aid.

■ 82 percent of voters agree that *"equal justice under the law is a right, not a privilege."* Again, this level of support signifies a core value and an opportunity.

■ Voters believe low-income individuals — especially those living in rural areas — and people struggling to make ends meet, face the most difficulty in obtaining legal help.

■ Voters strongly favor reform of the civil justice system, with half saying it needs to be rebuilt completely or fundamentally changed.

■ Strong majorities of voters support increasing state funding to build a more accessible civil justice system, and surprisingly *that support remains robust even when tied to the notion of raising taxes to do so.*

■ Voters overwhelmingly support the most traditional and familiar form of service to ensure access to the civil justice system — namely, having a lawyer. They also strongly support a wide range of

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services that comprise a holistic approach to ensuring justice for all.

The key research findings, combined with guidance from cognitive linguist Shenker-Osorio, point us to messages that emphasize shared values, are rooted in lived experience, provide tangible solutions, and end with a clear call to action.

Here are a few messaging tips based on the research:

■ **The value of equal justice under the law is widely held.** Voters strongly support enhancing access to the civil justice system, whether it is framed as "legal representation" or "legal help." Note that "assistance" does not test as strongly as "representation" or "help."

■ **Language rooted in real-life experiences your audience can relate to is more engaging and persuasive.** Examples: "A veteran denied hard-earned benefits." "A family facing the loss of a home due to job layoff or medical catastrophe." When you use "a" to bring the experience down to the level of an individual, your audience is likely to see in their mind's eye a specific person; this makes it harder for them to revert to negative stereotypes. Also, describing a person or a family as "struggling to make ends meet" is more effective than "low-income."

■ **Focus on solutions.** Your audiences have plenty of things to worry about already, so they don't want to hear about more problems. Emphasizing solutions is more persuasive than just a litany of what is wrong. Our research found that the base and persuadables strongly support an array of services in a system that enables everyone to get access to the information and effective assistance they need when they need it and in a form they can use. Among the most popular: simplifying court processes, allowing trained non-lawyers to provide some forms of legal help, offering online tools and

other self-help services, and providing screening to guide people to the type of help they need.

The Role of Cognitive Linguistics in This Research

In preparation for this latest round of research, we asked Shenker-Osorio to conduct a language analysis of how our issues — civil legal aid and civil justice reform — are currently talked about. She examined more than 600 unique expressions in public communications, including legal aid program websites and materials, the courts, the media, the opposition's arguments, and in popular culture. Her analysis revealed a few frames we can use to describe the problem we want to solve, and the story we tell about its origins.[7]

Here are her three key findings and recommendations:

1. Frame Problems as Legal

Shenker-Osorio reminds us that frames and metaphors matter. They influence not just how we speak, but the ways we unconsciously decide what ought to be done about an issue. Research has shown, for example, that groups primed with a metaphor of crime as "disease" (*plaguing* our communities) favor preventative solutions such as after school programs and preschool for all. Those presented with a metaphor of crime as "opponent" (*fight* crime, *get tough on* crime) thought harsher punishments were the way to go.

One of the most consistent findings in each phase of Voices' opinion research is that Americans have little understanding about the kinds of cases the civil justice system addresses. This is consistent with research from Rebecca Sandefur that suggests a key barrier to Americans getting legal help for their civil legal problems is their failure to perceive their problems as legal in nature.[8]

To address this challenge, Shenker-Osorio recommends that we bring the courtroom into the frame. Courtrooms have a prominent place on television, but our advocacy for legal aid often pushes them to the background. By using terms like "legal aid lawyer" and phrases like "having your day in court" and "appearing before a judge," we can activate this familiar frame and help our audience recognize, for example, that a dispute with a landlord or getting hounded by a bill collector is actually a legal problem with a potential legal solution.

2. Put the Actors into Our Story

When we don't make clear that problems are created when *people* do things, what we suggest instead is that harms are mysteriously visited upon people, and solutions similarly fall from the sky. The reality is that harms are the result of deliberate decisions by people, and it takes deliberate actions by people to correct them. Unless we convince our audiences that people making intentional — and at times nefarious — decisions are behind the outcomes we seek to change, we can't make a strong case that other outcomes are possible. In her analysis, Shenker-Osorio found that we tend to shield from view the actors who create the harms we target, and we fail to give our audiences the clarity they need to "get" the origin of the problems we describe.

Shenker-Osorio concludes that by "passivizing" problems, we are falling prey to the common tendency of implying that bad things "just happen." Her memo enumerates many examples of this that you'll readily recognize — and can easily fix.[9]

3. Avoid "Gap" Language

We know this will be a tough change for the legal aid sector, but there is more harm than good in using the term "justice gap." The "gap" metaphor, while popular right now, fails in every domain where it has been tested, including health care access, educational achievement, income, and now justice. The primary problem is that the word "gap" says there is a difference but conveys no origin story about how or why it came to be, nor does it offer a clue about what needs to be changed in order to fix it. In contrast, using the word "barrier" suggests something that is person-created, and therefore can be person-removed.

Shenker-Osorio's advice to avoid the "gap" metaphor is somewhat complicated by our desire to cite and publicize data in an important Legal Services Corporation (LSC) report about unmet legal needs, titled *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans.* While we should certainly utilize the contents of the report, we are well advised to minimize and eventually eliminate the use of the "justice gap" metaphor as a way of explaining the problem we're trying to fix.

Interested in more on the application of cognitive linguistics to messaging for civil justice? You can read Anat Shenker-Osorio's full memo here.[10]

What Language Should We Be Using?

The guidelines provided here, and in the full report, are just that — guidelines. But they do provide useful information on what language works, and what kinds of stories and examples are most persuasive. The national poll included dial testing of several

messages. In dial testing, survey participants listen to audio recordings of messages while continually adjusting a dial to reflect how they react to specific words and phrases. The report includes detailed analysis of the three most effective messages tested. In this audio recording of her July 2017 presentation, Celinda Lake also discusses the dial test results.[11] We recommend viewing the report while you listen to the recording.

Here is an example of language that Voices crafted based on what we have learned from all of the Voices' research. It opens with a strong shared value, uses specific examples rooted in lived experience, is clear about the causes of the problems we want to solve, offers concrete solutions, and includes an action step. Not every message can include all of these, but we offer it as an example of how the research can be applied:

> *Equal justice is an American ideal. Civil legal aid helps ordinary Americans escape an abusive partner, stop a wrongful foreclosure, and defend against a fraudulent debt collector. But too often, ordinary people who seek to protect their families, their homes and their livelihoods must face court without legal help. Finding yourself in court alone can be terrifying, but that is exactly what's happening today in three out of four civil court cases. As certain politicians threaten deeper cuts to civil legal aid funding, some states are stepping up to respond. They provide self-help services and court navigators; access to information through online forms and referrals to social services; offer reforms that reduce paperwork, and train judges to use plain and understandable language. This help provides access to the legal information and help people need, when they need it, and in a form they can use. By expanding legal help, these approaches produce significantly faster and better results — and at a cost savings. All states should follow this lead, ensuring that equal justice is a right for all Americans, not a privilege.*

What Next?

This is a strong foundation on which to continue building and intensifying support for civil justice reform and civil legal aid. But the messages will only work if we proactively use them — every day,

integrated as much as possible into our way of communicating. Voices offers tools, training (including a National Communications and Media training in conjunction with MIE), its JusticeVoices network, and other resources to help you. We encourage you to visit our website, www.voicesforciviljustice.org, and reach out to us at team@voicesforciviljustice.org.

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2   https://voicesforciviljustice.org/wp-content/uploads/Voices-2017-Messaging-Researc-Findings-LRP-ASO-Report-July-2017-Slides.pdf

3   https://voicesforciviljustice.org/for-advocates/messaging/civil-legal-aid-messaging/

4   http://lakeresearch.com/

5   http://asocommunications.com/

6   Celinda Lake notes that Americans have no problem holding two contradictory beliefs at the same time, but deeply resent having it pointed out to them.

7   A frame, in linguistics, acknowledges that words exist within and thus evoke pre-set packages of meaning, determined by our common knowledge, assumptions and beliefs. In short, words occur in contexts. As such, usage of even a single word brings with it a whole host of associated meanings, actors, and objects that come into play whether or not the speaker desires.

8   https://voicesforciviljustice.org/wp-content/uploads/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project-2011.pdf

9   https://voicesforciviljustice.org/wp-content/uploads/Voices-for-Civil-Justice_Language-Analysis_aso.pdf

10 https://voicesforciviljustice.org/wp-content/uploads/Voices-for-Civil-Justice_Language-Analysis_aso.pdf

11 http://bit.ly/voices2017research