



Opinion Research
Strategic Communication



RIGHT TO COUNSEL

Message Guide

for

The Right to Counsel National Campaign

February 2017

Introduction

The message guide presented here is designed to help Right to Counsel consortium members and allies increase public support for public defense. It is based on the findings from the 2016 R2C focus groups and public opinion survey, as well as our recommendations for communicating generally. The guide includes strategic message considerations and specific language for communicating the importance of public defense and outlines specific audiences for messaging. We hope this allows the consortium members to tailor key message components to their own constituencies and needs.

Communications Recommendations

A. Strategic message considerations

The public is with you on the basics. There is no need to spend your efforts trying to establish the fact or the principle of the right to counsel in the minds of the American public.

A robust majority is already certain that everyone in the United States who is accused of a crime has the right to counsel. And, as we saw in our focus groups, this right is important to America's sense of justice and fair play. The survey confirmed our focus group finding that advocates do not need to spend much energy to convince Americans of these points.

Three values statements are key.

The most effective way for the Right to Counsel Campaign to increase saliency is by emphasizing three key values that underlie support for this right, specifically:

- The right to counsel is a matter of fairness. All criminal defendants need a lawyer in order to have a chance of a fair and just outcome in court.
- The right to counsel is essential to protect innocent people from going to jail.
- Improving public defense will lead to fewer young people having their lives ruined because they are convicted of minor offenses.

Always reference the Constitution.

The fact that the right to counsel is an explicit Constitutional right in the U.S. is an extremely vital point that advocates should communicate repeatedly.



Inform your audience about the system's short-comings. The problem that you want to get across is how poorly we fulfill the right to counsel.

You need to tell the public what the nature of the problem is and back it up with examples. While most Americans have a vague idea that the system of public defense is overburdened, communicating about some of the most egregious examples of inadequacies in the system should help move the public to get behind meaningful improvements. In particular, hearing about defendants who have spent months in jail without seeing a lawyer and about huge caseloads of public defenders who have too little time to provide an effective defense for clients are very moving pieces of information.

Use more complex educational statements as secondary messages.

Some messages require people to make connections between lack of adequate public defense and large, institutional problems such as the high financial and social costs of locking up young people, over-incarceration in general, and racism in the criminal justice system. These messages may be important to educate the public about the link between public defense and other large issues of justice in America. However, they are not appreciated as reflexively as the simpler values messages listed above. Therefore, advocates should communicate the core messages first, before presenting other educational messages.

B. Message components that resonate

Winning messages communicate three things: what the problem is; why it matters (the values involved); and what can be done to ameliorate the problem.

Values front and center

In the hierarchy of messages on public defense, the most likely to resonate and the most persuasive are the following values messages:

- The quality of justice a person receives should not be determined by how much money a person has.
- Providing competent legal representation is necessary to prevent innocent people from going to jail.
- Fairness requires that all accused persons have access to a competent legal to represent them.
- Guaranteeing that every person accused of a crime has the right to a lawyer is a fundamental American right that is written into our Constitution.



- Better public defense system will lead to fewer young people having their lives ruined because they are convicted of minor offenses.

Information about the problem

- A lack of funding in many places has resulted in people accused of minor crimes waiting in jail as long as six months to have a lawyer assigned to them and a hearing held.
- Today in many states the public defenders are very overburdened-- sometimes with caseloads so high that a public defender can devote only seven minutes per case.
- In some states, public defense caseloads can range from 500 to 900 cases per year for each public defender.

Supportive educational messages

- Providing competent legal representation will mean that alternatives to incarceration are considered more often for poor people who are accused of less serious crimes. This will reduce the unfairness and expense of sending people to jail for minor crimes.
- Improving public defense for all will be a step toward correcting the racial unfairness in our criminal justice system.

C. Putting it all together: Core message conveys urgency

A core message should lead with values, present the threat to those values that adds urgency to the problem, and then offer solutions.

Core message component examples:

- **Values statement:** In America, every person accused of a crime should have access to a competent lawyer. It is a right written into our Constitution and is basic to our belief in fairness and equal justice.
- **Problem statement:** Today this Constitutional right is being denied in many states where people sit in jail for six months waiting for the court to assign them an attorney, and where public defenders are overburdened with caseloads that can range from 500 to 900 cases per year. The quality of justice a person receives should not be determined by how much money a person has.



- **Solution statement:** We should insist on national standards to ensure that public defenders and court-appointed attorneys have the time and resources necessary to do their jobs. Improving public defense will restore a Constitutional right and lead to fewer young people having their lives ruined because they are convicted of minor offenses.

30-second message:

- Today, the Constitutional right to an attorney for those accused of crimes is being denied across our country, where public defender caseloads are so high and their resources so low that the justice system is unfair, innocent people are going to jail, and young lives are being derailed by convictions for minor offenses. We need to insist on national standards to ensure that public defenders and court-appointed attorneys have the time and resources necessary to do their jobs.

D. Audiences

African Americans, Latinos, and young are key groups.

A communications strategy should turn the strong support that public defense now enjoys among African Americans into action, and then to nurture support among the next two most sympathetic groups -- Latinos and young adults of all backgrounds.

African Americans are the most supportive group of the right to counsel when tested at the beginning and the end of the interview. They are the most likely to increase their support after hearing both sides. African Americans come to this issue with a more acute awareness of the need, a more critical view of public defenders and the public defense system, and a greater willingness to spend resources on improvements. They can be a very effective catalyst for change.

Latinos are the next most supportive at the beginning of the interview and their support does not wane when retested late in the interview. They are also highly supportive of a federal requirement to enforce improvements of public defense in the states.

Among young people ages 18-29, support increased between early and late in the interview after they had heard messages pro and con for spending resources to improve public defense.



Messages vary only somewhat by audiences.

The basic message points on the right to counsel appeal across all demographic groups, making communications less complicated than if some groups rejected messages that others embraced. There are some differences by audience, however, which point to some small tweaks in message strategies for African Americans, Latinos, young people, and whites.

African Americans: The core messages speak loudly to African Americans. Because they already are aware of the inadequacies of the system, it would be most helpful to focus communications to them more on core values and less on providing information about the system's short-comings.

Latinos: Communications to Latinos should also stress core values. They are particularly interested in public defense as a way to save young lives from being ruined by convictions for minor offenses.

18-29 year olds and whites: Young adults also resonate to the core values message, but they need to hear about short comings in the current system. These informational messages are also generally more important for whites than for people of color to hear.



Messaging Do's and Don'ts

| Helpful | Not so helpful |
|--|--|
| Do lead communications with the values of fairness, innocence, and saving young lives. | Do not lead with more complex, educational messages that require the public to see broader, system-reform outcomes from an improved public defense, such as reducing over-incarceration, fighting racial injustice in the criminal justice system, and reducing prison costs. (Use these as secondary messages.) |
| Do reference that the right to counsel is stated in the Constitution. | Do not assume everybody knows it is a constitutional right. |
| Do describe the needed improvements as overcoming shortcomings of the PD system, such as huge caseloads and lack of resources. | Do not describe the needed improvements as better training or higher quality individual public defenders. |
| When possible, do describe the need in more inclusive terms -- to provide public defenders for all people who need them. | When possible, avoid describing the need specifically for one class of people -- low-income people who are accused of crimes. |
| Do assert the need for national standards for a minimum level of resources that should be available to all public defenders. | Do not talk about needing federal standards or federal government imposed standards for PDs. |
| When describing the unfairness of the system, describe the months that people wait in jail for an attorney to represent them, or the short time PDs have to represent each client because of high caseloads. | Do not try to convey urgency or unfairness by citing low wages for PDs. |
| Do try to recruit local law enforcement as messengers for the cause of improved public defense. | Do not make local police the enemy of adequate public defense. |
| Do use specific cases of real people who have suffered because of inadequate public defense. | Do not rely on statistics alone to tell your story. |

