



## **The Law School's Next Major Public Policy Initiative: Marquette Law School Poll**

### **Executive Summary**

Building on its dynamic public policy program, Marquette University Law School embarks on its next major public policy initiative: Marquette Law School Poll. The Law School has a growing reputation as a leading venue for serious civil discourse about law and public policy matters affecting the region and beyond. In just the past year, Ray and Kay Eckstein Hall, the Law School's \$85 million new home, has hosted six major political debates or candidate forums, in addition to other public policy programming such as events focusing on primary and secondary education and the wide-ranging "On the Issues" series.

With the 2012 elections looming and the likely significance that Wisconsin and the upper Midwest will have in the presidential election, the Marquette Law School Poll will help foster public discussion of important policy issues. Through a yearlong program of surveys and scientifically sound polls, the Marquette Law School Poll will inform understanding of public opinion and political choice. There are three likely themes for this initiative: presidential and Senate campaigns; citizen reaction to the current state administration and its policy choices; and attitudinal structure and perceptions of Wisconsin voters.

The project will involve a dozen or more polls over the year. These polls will be of the highest technical quality, including cell-phone-only respondents, using professional interviewers, and providing sufficient sample size, both individually and cumulatively, to allow detailed analysis of attitudes and vote choices among demographic and geographic subgroups—and, most importantly, of how those attitudes and choices change over the course of the year.

The initiative will be led by Charles Franklin, a visiting professor at the Law School for the spring and fall semesters in 2012; Mike Gousha and Alan Borsuk, fellows in public policy at the Law School; and interested faculty at the Law School and the larger university. With such leadership, the Law School will be one of the very few voices motivated by a desire to understand why voters chose as they did and what hopes and fears motivated their choices, rather than to spin a preordained conclusion. This will be an academic enterprise that establishes the Law School as a serious player in campaign analysis.

In short, the place, time, and people are right for the Marquette Law School Poll.

## I. Marquette Law School Poll

The name of the project will be “Marquette Law School Poll.” It will be funded by existing fundraised dollars that have been committed to the dean’s discretion to support such matters as public policy research. As the name indicates, one important aspect of the project will be the polling. Polling helps policy makers understand what is politically possible when they are developing public policy. It helps drive and shape public debate of policy issues, and, along with thoughtful analysis, it helps counter the spin of candidates who are pushing their own political agendas or ideology. The polling aspect of the project will be an important advance in the Law School’s public policy initiative without diminishing the Law School’s neutrality.<sup>1</sup>

### A. Overview

Wisconsin will play a critical role in the 2012 elections. President Barack Obama is highly unlikely to win reelection without Wisconsin. The state’s U.S. Senate election will be crucial in determining which party controls that institution. How the state resolves its internal divisions over state policy and governance will set the stage for the next decade. To know the winners, we need only wait for the votes to be counted. But to understand *why* voters chose as they did and what hopes and fears motivated their choices requires us to ask the voters through scientifically sound polls. With a yearlong program of surveys, we will inform understanding of public opinion and political choice. We will also be one of very few voices motivated by a desire to understand rather than a desire to spin the answer to a preordained conclusion. We can be the honest broker of information that—it is not too much to say—this state so desperately needs.

We will conduct a dozen or more polls over the year, highlighting three primary topical questions. These polls will be of the highest technical quality, including cell-phone-only respondents, using professional interviewers, and providing sufficient sample size, both individually and cumulatively, to allow detailed analysis of attitudes and vote choices among demographic and geographic subgroups—and, most importantly, of how those attitudes and choices change over the course of the year.

### B. Topics

We anticipate three themes for the year: determinants of vote choice in the presidential and Senate campaigns; citizen reaction to the current state administration and its policy choices; and attitudinal structure and perceptions of Wisconsin voters.

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<sup>1</sup> To be sure, this is not to suggest that the project will not be criticized or even politically attacked, depending on the results of any particular poll. Such criticism is a common phenomenon for university activities that touch upon public (as here) or even private life and must be regarded as a cost of doing business.

## **1. Presidential and U.S. Senate Campaigns in Wisconsin**

In 2008, Barack Obama won Wisconsin by some 14 percentage points. In 2010, the state rejected Democratic control of both state and federal offices. In 2012, Wisconsin must somehow reconcile these strikingly divergent choices. Two clear alternative lines of thought suggest themselves. One is that both 2008 and 2010 were about the same thing—the economy and jobs. If so, 2012 will also be about which party or candidate seems more likely to deliver an improved economy. But (to turn to the alternative) perhaps 2010 was a shift in fundamental preferences from those generally favored by Democrats to those typically favored by Republicans. Which of these lines of thought drives voter choice in 2012 will determine both presidential and Senate election outcomes and will illuminate our understanding of what Wisconsin citizens want from their government. The Marquette Law School Poll will focus on these broad areas of explanation while retaining enough flexibility to incorporate unexpected developments.

## **2. Current State Administration and State Policy**

The spring of 2011 witnessed the most divisive political and policy battles in Wisconsin in a century. Those issues were primarily framed by the status of public employee unions, but the underlying policy motivations are far more wide-reaching. What do we expect from government, what are we willing to pay for, and what are we willing to give up? Can business growth be sufficiently stimulated by state policy to create the positive social outcomes promised, or must government play a large role in protecting less successful citizens and regulating damaging externalities from economic institutions? These questions frame the serious philosophical debate that is often masked by unserious political posturing on all sides. With the first biennial budget now in place, we will be able to probe perceptions of the effects of budget cuts, i.e., how much citizens notice them and applaud or regret the changes in policy. We will also measure preferences for tax policy and particular noneconomic policies.

The core policy focus will be the same in all events. Should Governor Scott Walker face a recall election, these topics will be key to understanding the vote; to be sure, we would adjust our polling schedule in that case and add more measures of perceptions of candidate personality. And should there not be a recall election, our policy focus will remain on the topics described above, for it sets the stage for November 2012's state legislative elections as well as evaluations of the direction of state governance.

## **3. The Structure of Attitudes and Perceptions in Wisconsin**

Citizens of Wisconsin are also residents of a place and a region. Those who live “Up North” have a lifestyle quite distinct from those who live in the City of Milwaukee. Residents of economically vibrant areas lead very different lives from those in areas of decline. Those with high education and skills enjoy dramatically different prospects from those who failed to finish high school or attain training for skilled trades. When

we talk about the state's problems and prospects, we would do well to appreciate the heterogeneity of those problems and how they look different in various locations, both physical and social. The Marquette Law School Poll will cumulate over the year to provide one of the most detailed examinations of how perceptions, opinions, and preferences vary and what that examination says about the things that unite us and that divide us. A significant fraction of this focus will concern the Milwaukee region and its unique challenges. If much of the state seems suspicious of (if not openly hostile to) Milwaukee, how does this affect the potential for political leadership that bridges our divisions or perpetuates them? In what ways are we fellow citizens, and in what ways mutually suspicious clans?

### **C. Methodology**

The Marquette Law School Poll will be top quality. We will use a nationally known polling firm with professional interviewers for data collection. Unlike the vast majority of state polls, the Marquette Law School Poll will include in the sample those with only cell phones (a group near 25 percent of Wisconsin residents). With a base of 12 polls, we will focus in the winter and spring months on the state administration and policies and the structure of attitudes. The summer and fall polls will build on that base to focus on the presidential and Senate campaigns. If circumstances suggest, we can expand this schedule to add greater depth in each of the three subject areas and higher frequency of polling. By using all the polls collected throughout the year, we will leverage earlier polls to allow analysis of changes in opinion over time as well as of how attitudes and candidate support are structured across groups and geography.

This will be an academic enterprise. We will welcome partners or collaborators from elsewhere in the university or the community, including media organizations. After (or even before) election day, we will put all the data on the Web; that is, we will give it away. We also plan to invite ten or more scholars to analyze the data and come to Eckstein Hall in late 2012 to present their analyses of the year of data and of the election cycle itself.

This will be a public enterprise. We will not only make our results available to the media, both in Wisconsin and nationally, but we will also offer the media follow-up analyses of questions that our data are uniquely capable of answering. Where most pollsters report the data once and move on to the next poll, we will ask news media: "What else would you like to know?" And we will answer it for them based on the data. This is designed to produce a constant stream of new stories based on our surveys. We will also plan topical briefings that focus on state and regional issues.

In the end, the goals include establishing Marquette University Law School as a serious player in campaign analysis—indeed, more so than many other entities that sponsor polling more of a horse-race variety. We would make little contribution by being a cookie cutter that produced the same polls with a news release and moved on to the next poll. Rather, the project will analyze and continually report what the data show about the evolution of the issues and the election over the entire year. We will

proceed with websites, news releases, and journalism partnerships. At the end of the day (or, more accurately, the year), we will have provided a basis against which future claims concerning the 2012 election—and its implications for public policy—can be assessed.

## **II. The Larger Context: The Place, Time, and People**

The foregoing provides a general description of the project. At the same time, it may be helpful to place the Marquette Law School Poll in a larger context: that is, to set forth the place, time, and people underlying the project.

### **A. The Place: Why Marquette Law School?**

During the past several years, Marquette University Law School has greatly expanded its commitment to fostering informed discussion of law and public policy matters affecting the region and beyond. Since 2008, Mike Gousha, distinguished fellow in law and public policy, has led many of these efforts, which have enhanced significantly the Law School's reputation as a leading venue for serious civil discourse.

In the past year alone—a highly charged political time in Wisconsin—Marquette Law School played a prominent role in key political and policy discussions. From debates for the state's highest offices to an informal conversation with U.S. Representative Paul Ryan, who shaped the Republicans' proposed federal budget, the Law School helped inform and educate not only its students but the larger community—indeed, citizens around the state and the region. Under the leadership of Alan Borsuk, senior fellow in law and public policy, the Law School also continued its focus on urban primary and secondary education, examining what is working here and elsewhere in the country.

Through symposia, public lectures, conferences, and the Law School's "On the Issues" conversation series featuring numerous news and policy makers, Marquette University Law School has established itself as the place to which those in the region come to discuss the hard civic problems, the ones that affect us all.

Here is the proof.

#### **1. Policy and Politics**

Marquette Law School played an important role in educating voters during the hard-fought elections in 2010–2011. In particular, Mike Gousha moderated six major debates or candidate forums. These all occurred in Eckstein Hall, the Law School's extraordinary new home.<sup>2</sup>

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<sup>2</sup> Ray and Kay Eckstein Hall, which was dedicated in September 2010, is located at the city center of Milwaukee—specifically, at the Marquette Interchange, where the highways up from Chicago, over from Madison, and down from the North converge. Eckstein Hall has received numerous architectural and design awards and received national attention for its elegant, forward-looking, and functional design.

Most prominently, Marquette Law School served as the venue for a televised and nationally recognized series of debates featuring the candidates for governor and U.S. Senate. The first *Town Hall Challenge* (as the broadcast series was termed) was held on August 25, 2010. It saw the Republican gubernatorial candidates, Milwaukee County Executive Scott Walker and former Congressman Mark Neumann, answer questions in a unique, live, interactive format that included citizens from six cities around the state. The second *Town Hall Challenge*, on October 15, featured the finalists in the governor's race, Mr. Walker and Milwaukee Mayor Tom Barrett, in the same format. On October 22, the third and final event of the series brought incumbent U.S. Senator Russ Feingold and the challenger, businessman Ron Johnson, to the Law School for their final debate of the campaign.

Each event was held in Eckstein Hall's Appellate Courtroom. Each was broadcast on commercial television statewide and on local public television, reaching an estimated Wisconsin audience of more than 200,000 people. The final two debates in the series also were broadcast nationally on C-SPAN. The Law School was one of three primary partners in this project, along with WISN-TV and WisPolitics, the state's premier political website. The *Town Hall Challenge* series recently received a prestigious Walter Cronkite Award for Excellence in Television Political Journalism from the USC Annenberg School for Communication & Journalism.

The Law School hosted a number of other election-related events. For example, the first major televised debate in the race for Wisconsin Supreme Court, featuring incumbent David Prosser and challenger JoAnne Kloppenburg, was broadcast from Eckstein Hall on March 21, 2011. That race went on to receive substantial national media attention. In addition, as part of our "On the Issues" series, Mike Gousha moderated last fall the first joint appearance of the candidates for Wisconsin attorney general. It featured the incumbent, J. B. Van Hollen, and challenger Paul Hassett at the Law School. And, together with the Milwaukee Press Club, the Law School hosted the first forum featuring the candidates in the race for Milwaukee county executive.

Each of these events—five of which were held in an elegant large lecture hall with high-tech broadcast capabilities—drew a capacity audience.

The Law School's focus on policy and politics went beyond the candidates. One month before the November 2010 election, Gousha moderated an event that featured Rick Esenberg, a visiting faculty member at the Law School, and Jay Heck, executive director of Common Cause in Wisconsin. The result was a lively discussion of the role of money and free speech in political campaigns. One week from election day, the chairmen of the State Republican and Democratic Parties, Reince Priebus and Mike Tate, came to Eckstein Hall for a joint conversation with Gousha (Mr. Priebus has now assumed the position of the party's national chair). Outgoing Wisconsin Governor Jim Doyle offered perhaps the most detailed assessment of his tenure during an "On the Issues" appearance on November 30. And one of the most powerful men in Washington,

Wisconsin U.S. Representative Paul Ryan, visited the Law School on February 3, 2011, to lay out his vision for the nation's fiscal future.

Our efforts continued even beyond the academic year. In particular, in mid-May, the Law School and the Milwaukee Press Club collaborated on an event examining the future of the City of Milwaukee. The panelists for "What Now, Milwaukee?" included Milwaukee Mayor Tom Barrett and recently elected Milwaukee County Executive Chris Abele.

## 2. Continued Focus on Education

It is not all politics or discrete sets of policy matters.<sup>3</sup> The Law School has taken the view that if something is important to the Milwaukee region, it is presumptively important to the Law School. In this regard, we have particularly sought to train a focus on the state of primary and secondary education in the region.

There being almost unanimous agreement on the desired end—improved student performance in the state's largest school district, not least for the sake of the region's economic prospects—the focus has been on the *means*. Through the collaborative work of Gousha, Borsuk, and others, we have continued to highlight the challenges facing the state's largest school district and to focus on possible solutions. For example, Gregory Thornton, superintendent of Milwaukee Public Schools, discussed his vision of the district's future during an "On the Issues" appearance at the Law School last fall. The founder of Teach For America, Wendy Kopp, offered her take on what works in urban education during an "On the Issues" event in the spring.

The "what works" theme was also the subject of a conference last year called "High Success with High-Need Kids." The event was held November 9 and was very much a collaborative effort. Not only Gousha, Borsuk, and Michael Spector, Boden Visiting Professor of Law, but also Associate Dean Matt Parlow, Marquette College of Education Dean Bill Henk, and Jeff Snell of the president's office worked together to create a conference that sought both to inform and to inspire. It featured Rajiv Vinnakota, one of the founders of Washington's SEED School; a panel of local educators who are achieving promising results in their schools; and Rafe Esquith, a Los Angeles public school teacher. Esquith, a former national teacher of the year, brought some of his students, the Hobart Shakespearians, to perform. There were many positive comments on the conference, which, again, drew a capacity crowd.

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<sup>3</sup> The "On the Issues" series, bolstered by Eckstein Hall, had another successful year beyond politics. It delved into the business of sports with Bradley Center Chairman (and attorney) Marc Marotta and Brewers Chief Operating Officer (and attorney) Rick Schlesinger; received an update on the ambitious plan to revitalize several Milwaukee neighborhoods from Susan Lloyd, executive director of the Zilber Family Foundation; explored the changing nature of threats to the United States' national security with the new special agent in charge of the Milwaukee office of the FBI, Nancy McNamara; and heard about the changing media world from the well-known journalist, Ray Suarez of *PBS NewsHour*.

The Law School's focus on education extends beyond the boundaries of the university. Borsuk, with his years of reporting on the Milwaukee Public Schools, is one of the region's most respected voices on educational trends, strategies, challenges, and opportunities. His thoughtful, provocative column on Sundays in the *Milwaukee Journal Sentinel* and regular postings on the Law School faculty blog are must reads for those interested in the future of education in this region.

One result of these education efforts has been a developing sense that civic leaders regard Marquette Law School as a key player in this public policy discussion. There is an understanding that the Law School will not take sides in the education debate, but is eager—and unusually well positioned—to play a role as convener and facilitator in the effort to move our community forward.

### **3. Driving the Debate**

In addition to establishing itself as a community convener, there is great potential for the Law School to become *the* place for news and policy makers to propose bold ideas and offer new thinking on the issues that the region faces. A glimpse of this potential could be seen this past February 11, when Milwaukee County District Attorney John Chisholm delivered a speech on the need for reform in the state's criminal justice system and then joined Gousha for a question-and-answer session following his remarks. Chisholm offered a number of concrete proposals, with the ultimate goal of closing a state prison. His decision to use Marquette Law School as the platform to unveil his proposal speaks to the role of the Law School as a desirable forum to express difficult and serious ideas. While ultimately Chisholm's vision was not included in Governor Walker's first budget, it has picked up some support in Democratic circles, remains the subject of serious discussion, and may yet find its way into the debate in the next budget cycle.

### **4. Wisconsin Matters**

"Place" goes beyond Marquette. The upper Midwest, including Wisconsin in particular, is expected to play a pivotal role on the national election scene during 2012. For example, George Will began the year suggesting that "the next presidential election probably will be won in the Midwest."<sup>4</sup> More generally (and also more specifically in a geographical sense), the State of Wisconsin has become something of a national bellwether politically. Barack Obama took Wisconsin by 14 percentage points in 2008, and yet Wisconsin was the national epicenter of the Republican sweep in 2010, seeing the state legislature, governorship, and U.S. Senate seat all pass to the Republicans.

Add to the foregoing the dramatic events in the Wisconsin State Capitol during 2011, and there is considerable reason to expect that Wisconsin will be a major battleground state drawing national attention in 2012.

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<sup>4</sup> George Will, Op-Ed Column, *Fred Upton, Rust Belt Revolutionary*, Wash. Post., Jan. 9, 2011 (discussing Ohio, Michigan, Wisconsin, Minnesota, and Missouri).



## B. The Time Is Right

This brings us to the time. Election-year 2012 is likely to be momentous even beyond the usual presidential election year. The *exceedingly* narrow Democratic victories in Wisconsin in 2000 and 2004, the wide victory by President Obama here in 2008, and the Republican sweep in 2010 together reflect the intense and precarious political divisions found in Wisconsin, especially, and throughout the nation in general. These divisions will come to a head in the 2012 presidential election.

It is not merely the November 2012 general election in Wisconsin that will attract national attention. It is possible that Wisconsin will again play an important role in the Republican nomination process (the state's primary has been consequential during many presidential elections). Should a recall election of Governor Scott Walker be successfully scheduled, the resulting statewide referendum on his policies and leadership will dominate political news in the state and receive considerable national news coverage throughout the spring. And the existence of an open U.S. Senate seat in Wisconsin also ensures national attention during the summer, in the run-up to the Republican primary in August (as well as throughout the fall), as the Democrats seek to maintain their narrow edge in the upper house of the U.S. Congress.

Without doubt, 2012 will bring Wisconsin great attention and scrutiny.

## C. We Have the Right People in Place

The Law School has assembled a remarkable set of individuals with relevant expertise for its Marquette Law School Poll project. Mike Gousha, distinguished fellow in law and public policy, is regarded as the best broadcast journalist in Milwaukee's history.<sup>5</sup> The former lead anchor for WTMJ-TV and current host of the statewide public affairs television program, WISN's *UpFront with Mike Gousha*, Gousha has an unsurpassed reputation for nonpartisanship and, as evidenced by his ability to assemble the programming described earlier in this memorandum, has key relationships and the trust required both within the media and among political players. He also has extensive experience reporting polling results.

Alan Borsuk, senior fellow in law and public policy, is also an important element. In 2009, Borsuk joined the Law School after 37 years at the *Milwaukee Journal Sentinel* (including several decades with one of its predecessors). While his broadest reputation in recent years has been in the field of education (the sphere in which, as part of his law school role, he continues to report and write each Sunday in the *Journal Sentinel*), Borsuk is an accomplished reporter on topics from Milwaukee city government to federal courts. He has covered several presidential campaigns and numerous presidential visits to Wisconsin, as well as a wide range of state political stories. Borsuk's work has been published not only by the *Journal Sentinel* but also by

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<sup>5</sup> See, e.g., Tim Cuprisin, *Inside TV & Radio*, Milwaukee J. Sentinel, Aug. 24, 2006, at B8.

the *New York Times*, the magazine of Harvard University's Nieman Foundation, Columbia University's Hechinger Institute on Education and the Media, and Marquette publications, including the *Marquette Lawyer* magazine and the Law School's faculty blog. Most specifically here, Borsuk has extensive experience in reporting on polling.

Charles Franklin will be key to the project. Franklin, professor of political science at the University of Wisconsin–Madison, will be a visiting professor of law and public policy at Marquette University Law School during spring and fall semesters 2012. Franklin co-founded Pollster.com, which quickly became an award-winning site for nonpartisan polling analysis; it was recognized by the *New York Times*' "Year in Ideas for 2008" and *Time* magazine's 50 Best Websites of 2009 and won the American Association for Public Opinion Research's prestigious "Innovator's Award." Franklin is an expert on statistical methods, political polling, elections, and public opinion. He has served as a member of the ABC News election-night analysis team and co-director of the Big Ten Poll, which conducted 18 state and national polls in 2008, and he is a past board member of the American National Election Study, the leading academic survey of elections. Franklin is poised to direct a polling project that will be rigorous in methodology, nonpartisan in its orientation, and of immense interest to the media, politicians, and the broader public.

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The foregoing is a sketch of the Marquette Law School Poll and an effort to place the project in a larger context. There is much else to consider with respect to it. In particular, the faculty of the Law School and the larger university, with their extraordinary range of expertise, will have ample opportunities to be involved, whether by suggesting polling topics, exploring the data generated, or participating in public discussions. All Marquette faculty, graduate students, and, indeed, undergraduates will have access to the data throughout the year for their own analysis, research, and teaching. Such individual faculty involvement will be facilitated but in no way needs to be controlled by the Law School. In short, the project can be a resource available to all, in the best academic tradition.

Joseph D. Kearney  
*Dean and Professor of Law*

(414) 288-1955  
joseph.kearney@marquette.edu