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Public Views of the Supreme Court

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Preface

The Marquette Law School Poll conducted a national survey of opinion concerning the U.S. Supreme Court on September 3-13, 2019. The survey provides a detailed look at public knowledge about the Court and the justices, confidence in the Court and support for the institution, opinions about decisions, and how views of the Court are connected to partisan and ideological predispositions.

This report provides an overview of these topics, focusing on knowledge, perceptions, and the role that political preferences play in structuring opinion.

The survey was conducted September 3-13, 2019, interviewing 1,423 adults nationwide, with a margin of error of +/-3.6 percentage points. Interviews were conducted by the National Opinion Research Center (NORC) using its AmeriSpeak Panel, a national probability sample with interviews conducted online. The detailed methodology statement, complete survey instrument, topline results and crosstabs are available at <https://law.marquette.edu/poll/category/results-and-data/>.

Introduction

The Supreme Court of the United States is a powerful branch of the federal government, the ultimate arbiter of constitutional cases and controversies. It has an

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important role in both the separation of powers among the branches of the federal government and in ordering relations between the federal government and the 50 states. The Court’s importance is evident both in the constitutional structure and in the lived American experience.

At the same time, the Court is also the least-well-known branch. While the Court has often been caught up in intense legal and political questions, it is shielded from direct election, and lifetime tenure further insulates sitting justices from political pressure. The subject matter of the Court is far from the ordinary experience of citizens. While written decisions of the Court provide the explicit bases of rulings (and of dissenting views), few among the mass public ever read those decisions, and news accounts can at best provide a simplified summary. This barrier to public understanding derives from the Court’s subject matter and structure but also ensures that citizens rarely are exposed to legal arguments and instead are most likely to judge decisions based on the outcomes, not the reasoning behind those decisions.

The public work of the Court is also episodic in comparison to that of the other branches. The actions of the president and Congress are the subject of numerous daily news stories, public events, and explicit efforts to persuade the public. In contrast, the Court accepts written briefs and hears oral arguments, only a few of which are covered in the general interest news media; deliberates privately; and hands down decisions on a handful of days a year, with a rush near the end of the term in June. These characteristics further separate the Court from the public eye and attention span.

And yet the Court is seen as especially dependent on public support for its authority. With “no influence over either the sword or the purse,” Hamilton argued, with “neither FORCE nor WILL,” the Court’s power rests on “merely judgment.” Public support for the Court as an institution has been fundamental to its ability to have decisions seen as legitimate even in the face of disagreement over outcomes. Seldom does a ruling of the Court “settle” a political matter, as the long history of civil rights cases, abortion rights, and redistricting cases, to name only three, demonstrates. Political dispute continues, but public acceptance of the legitimacy of the Court constrains the other, far more political, branches to work within the confines of Court rulings. Without public support, the Court might find compliance with its decisions more elusive.

Our purpose here is to examine how the public sees the Supreme Court, its justices and its decisions. This is a view from the public perspective. The public is not learned in the law, nor is it especially well informed about the details of the Court. Nonetheless the public is urged to consider the Court in political debate, in voting decisions, and ultimately in their view of the Court as a legitimate arbiter of the law. Our survey attempts to understand the boundaries of the public’s knowledge,

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confidence in the Court, understanding of how decisions are reached, and the relationship of these things with political preferences that structure citizens’ understanding of government and politics more generally.

This report considers seven broad topics concerning public views of the Court:

- * Knowledge and awareness
- * Understanding of the basis of decisions
- * Confidence in the Court and support for its structure
- * Views of nominations and the desirable qualities of justices
- * Perceived ideological balance of the Supreme Court
- * Reaction to past and possible future decisions
- * The political structure of perceptions and of presidential handling of nominations

The primary organizing themes are that public knowledge and awareness of the Court are limited and that this plays a key mediating role in public perceptions. In general, those most knowledgeable and aware have more strongly structured views of the Court, and are generally more confident in the Court than those less informed.

The public places more emphasis on lay notions of fairness in outcomes rather than legal theories about how decisions should be reached. However, a solid majority say that the Court primarily follows the law in reaching decisions rather than political considerations.

Confidence in the Court is largely structured by how much knowledge and awareness citizens have, with political preferences also influencing confidence. There is substantial support for restructuring the institution, but this support is less among those most knowledgeable about the Court.

Citizens are apt to emphasize qualities of good judgment and empathy over judicial philosophy when describing what is desirable in a justice.

Citizens view the Court as ideologically centrist, with few believing that it is either very liberal or very conservative. Rather, a majority see it as moderate or conservative but not extremely so. This view of moderation may play an important role in confidence in the Court, as few see it as extremely far from their own ideological preferences. Views of specific decisions vary widely, with substantial majorities supporting past decisions in some cases while large majorities oppose past decisions in other cases. Views of case outcomes are sometimes strongly structured by partisanship and ideology, although there are also decisions that show only the faintest hint of these considerations.

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Views of the justices are also influenced by partisan and ideological considerations. Despite the limited awareness of individual justices, in general citizens form impressions of the justices that are in line with the individual citizen’s partisan and ideological preferences.

Evaluations of presidential performance in Supreme Court nominations, and of overall presidential performance, are influenced by views of recent nominees, even after considering partisan and ideological influences. This shows that how the president approaches the Court has discernible effects on his political support.

KNOWLEDGE AND AWARENESS

This section covers what people know about the Court and the Constitution. We focus on the importance people attach to appointments to the Court, the experience people have of having read the Constitution, and the role of general attention to politics.

Factual knowledge is measured by four items assessing understanding of judicial review, the authority of Court decisions over the President, identification of the Bill of Rights, and knowledge of which party’s presidents have appointed a majority of the Court.

Awareness of the justices is an additional measure of familiarity with the Court, showing considerable variation across justices.

In each case we also consider the characteristics that affect awareness and knowledge of the Court.

Attention to the Court

While most people think appointments to the Court are important, one in five think it is not so important.

How important is the choice of the next Supreme Court justice to you personally?

<u>Response</u>	<u>Percent</u>
Very important	47
Somewhat important	31
Not too important	15
Not at all important	7

In subsequent analysis, the two categories of least importance of the next appointment are combined to form a three-category importance of appointments scale.

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Importance of next Court appointment, three-category scale

Response	Percent
Not imp	22
Somewhat	31
Very important	47

Basic familiarity with the Constitution can come from many sources, but simply having read the Constitution is a personal source of knowledge for about four in ten respondents.

Have you personally ever read the entire Constitution, either in school or on your own?

Response	Percent
Yes, have read the entire Constitution	43
No, have not read the entire Constitution	57

General attention to politics is associated with knowledge of the Constitution and the Court.

Some people seem to follow what’s going on in politics most of the time, whether there’s an election going on or not. Others aren’t that interested. How often do you follow what’s going on in politics?

Response	Percent
Most of the time	43
Some of the time	35
Only now and then	15
Hardly at all	6

In subsequent analysis, the two lowest levels of attention are combined as low attention, with “some of the time” as a medium level of attention and “most of the time” coded as high attention.

Some people seem to follow what’s going on in politics most of the time, whether there’s an election going on or not. Others aren’t that interested. How often do you follow what’s going on in politics?

Response	Percent
Low	22
Medium	35
High	43

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Attention is related to thinking the next appointment is important.

Importance of Court appointment by attention to politics

	Not impt	Somewhat	Very important
Low	50	32	18
Medium	22	41	37
High	7	23	70

Those who pay more attention to politics in general are also more likely to say they have read the Constitution.

Read the Constitution by attention to politics

	Not read	Read
Low	68	32
Medium	61	39
High	49	51

Factual knowledge

We measure knowledge of the Court and the Constitution through four items, assessing understanding of judicial review, the authority of the Court over the president, the location of the Bill of Rights within the Constitution, and which party’s presidents have appointed a majority of the current Court. From these items we construct a “knowledge” measure which is useful in understanding other perceptions of the Court.

Does the Supreme Court have the power to review laws passed by Congress and to declare them invalid if they conflict with the Constitution?

Response	Percent
Yes, the Supreme Court has this power	86
No, the Supreme Court does not have this power	14

If the Supreme Court rules against the president in a case, does the president have the power to ignore that ruling, or is the president required to do as the ruling says?

Response	Percent
The president has the power to ignore the ruling	23
The president is required to do as the ruling says	77

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Which part of the Constitution is called the ‘Bill of Rights’?

Response	Percent
Article I	9
Article II	3
Article III	2
Amendments 1-10	52
Amendments 13-15	1
I don’t know	33

What is your guess as to whether a majority of the current U.S. Supreme Court justices were appointed by Democratic or Republican presidents?

Response	Percent
Definitely Dem Majority	4
Probably Dem Majority	23
Probably Rep Majority	54
Definitely Rep Majority	19

We can sum up the correct answers to create a knowledge score for each respondent, ranging from zero to four correct answers. That produces the next table.

Knowledge of factual information, full scale

Response	Percent
0	2
1	6
2	25
3	39
4	29

For subsequent use, we collapse the full score into three categories, combining scores of 0, 1 and 2 into the “low” category.

Knowledge of factual information, three-category scale

Response	Percent
Low	32

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Medium 39
 High 29

Correlates of knowledge

The simple fact of having read the Constitution matters. Those who say they have read the Constitution are about 10 percentage points more likely to score high on factual knowledge, and 11 points less likely to have a low score.

Knowledge score by having read the Constitution

	Low	Medium	High
Yes, have read the entire Constitution	26	39	35
No, have not read the entire Constitution	36	39	24

General attention to politics plays a somewhat stronger role in factual knowledge.

Knowledge score by attention to politics

	Low knowledge	Medium	High
Low attention	53	32	15
Medium	30	45	24
High	23	38	39

Those with higher levels of formal education are also more knowledgeable.

Knowledge score by education

	Low	Medium	High
HS or less	41	42	17
Some College/Assoc.	33	40	26
BA	22	34	44
Post-BA	17	38	45

Those respondents who read a newspaper more often are also likely to know more about the Court and the Constitution.

Knowledge score by newspaper readership

	Low	Medium	High
Every day	24	38	37
A few times a week	27	36	36
Once a week	37	42	21

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Less than once a week	38	43	19
Never	40	39	21

Broadcast news sources at first glance appear to relate to differences in knowledge, but these differences largely disappear when other factors are taken into account.

Knowledge score by news source

	Low	Medium	High
Network news such as on NBC, ABC or CBS	34	42	24
Fox News Channel	34	44	21
CNN	27	43	30
MSNBC	23	42	35
PBS NewsHour	11	43	46
National Public Radio (NPR)	18	26	56
Some other national news source, please specify:	36	29	35
Do not watch/listen to national news source	45	30	24

While these differences in knowledge appear for newspaper readership and broadcast sources, the effects are not statistically significant once other factors, including attention to politics, the importance of appointments to the Court, and having read the Constitution, are included in a multivariate model. The source differences likely reflect differences in the audiences for various news sources rather than effects due to the content of those sources.

Awareness of justices

We asked respondents if they had never heard of each justice, had heard of each justice but didn’t have an opinion, and if they were aware whether they had a favorable or unfavorable opinion. Here we focus on awareness and turn to evaluations in a later section.

There is considerable variation in awareness of the justices, from as low as 16 percent able to rate for Justice Breyer to as high as 59 percent for Justice Ginsburg and 58 percent for Justice Kavanaugh.

Some justices of the Supreme Court are better known than others. For each of these names have you never heard of them, heard of them but don’t know enough to have an opinion of them, have a favorable opinion, or have an unfavorable opinion?

	Not heard	Heard, not enough	Have opinion
Breyer	48	36	16

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Kagan	47	31	22
Alito	41	37	22
Gorsuch	38	32	30
Roberts	34	32	34
Sotomayor	31	28	41
Thomas	25	25	51
Kavanaugh	17	25	58
Ginsburg	21	20	59

Each individual justice is better known among those with high attention to politics than among those with less attention. The same holds for the relationship between knowledge of each justice and the importance of appointments to the Court and whether the respondent says he or she has read the Constitution. Rather than look at familiarity of each justice, we create a scale, counting the number of justices the respondent knew well enough to assign a favorable or unfavorable rating.

Number of justices able to rate, full scale

Response	Percent
0	28
1	11
2	9
3	9
4	9
5	8
6	8
7	6
8	4
9	8

Just over one in four respondents lacked enough information to rate even a single justice, with an additional 11 percent able to rate only one justice. Among those rating only a single justice, 49 percent rated Kavanaugh, 26 percent rated Ginsburg and 14 percent rated Thomas, with all other justices rated by less than 4 percent each among these very low-awareness respondents.

Collapsing the awareness scale into three approximately equal groups provides a low awareness group for those able to rate no or one justice, a middle group for those rating two to four justices, and a high awareness group for those able to rate at least a majority of the justices.

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Awareness of justices, three-point scale

Response	Percent
Low	39
Medium	27
High	35

Awareness of current justices is higher among those who assign greater importance to Court appointments and among those who say they have read the Constitution.

Awareness of justices by importance of appointments

	Low	Medium	High
Not impt	63	24	13
Somewhat	46	35	19
Very important	22	24	55

Awareness of justices by read Constitution

	Low	Medium	High
Not read	42	31	27
Read	33	22	45

General attention to politics also is associated with greater familiarity with the Justices.

Awareness of justices by attention to politics

	Low	Medium	High
Low	73	19	8
Medium	44	33	23
High	17	26	57

Higher levels of formal education are also associated with greater familiarity with the justices.

Awareness of justices by education

	Low	Medium	High
HS or less	55	24	21
Some College/Assoc.	37	30	33
BA	27	25	49

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Mainly politics	36
Mainly the law	64

A majority say that justices should base their decisions on an evolving meaning of the Constitution rather than on what the Constitution was originally understood to mean.

How should Supreme Court justices base their decisions? On their interpretations of what the U.S. Constitution was understood to mean when it was originally written or on the Constitution as a document whose meaning may have evolved over time?

Response	Percent
Original meaning	43
Evolving meaning	57

A majority of the public believes that decisions should produce “fair” outcomes rather than strictly follow the law if that would produce an unfair outcome.

Which is more important, a decision that leads to a fair outcome or one that follows the law, even if seemingly unfair?

Response	Percent
That leads to a fair outcome	56
That follows the law, even if seemingly unfair	44

In thinking about the qualities important in a justice, the public puts greater emphasis on good judgement and empathy, followed by respect for existing decisions, and least importance is assigned to following a judicial philosophy. (In this table “not at all important” and “not very important” are combined as “unimportant.”)

- “How important is it for a good Supreme Court justice to have each of these characteristics?”
 - “Be able to empathize with ordinary people; that is, to be able to understand how the law hurts or helps the people”
 - “Exercise of good judgment and wisdom in the application of the law rather than only strict technical compliance with the law as it is written”
 - “Respect for existing Supreme Court decisions”
 - “Interpret the law according to the judge’s judicial philosophy, whether liberal or conservative”

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How important is it for a good Supreme Court justice to have each of these characteristics?

	Unimportant	Somewhat	Very
Empathy	10	21	69
Good judgment	10	25	65
Respect precedent	12	44	44
Judicial philosophy	26	31	43

Politics and decisions

Party and ideology are only weakly related to views of the basis of decisions, with the exception of views that decisions should be based on original meaning or an evolving meaning. On this original vs. evolving meaning, both party and ideology have substantial effects, and those effects increase as knowledge rises.

Political ideology is related to the emphasis on decisions based on the original meaning versus an evolving meaning.

Original or evolving meaning by ideology

	Original meaning	Evolving meaning
Very Con	79	21
Conservative	69	31
Moderate	38	62
Liberal	19	81
Very Lib	22	78

The strength of the relationship varies with knowledge. For those in the low-knowledge group, the correlation between ideology and original or evolving meaning is .24. For those in the medium knowledge category it is .36, and for those in the high knowledge category the correlation is .50.

Decision based on original or evolving meaning by ideology by low, medium, or high knowledge

	Low: Original	Low: Evolving	Med: Original	Med: Evolving	High: Original	High: Evolving
Ideology						
Very Con	71	29	91	9	81	19
Conservative	63	37	75	25	70	30
Moderate	37	63	42	58	32	68

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Liberal	30	70	21	79	9	91
Very Lib	55	45	34	66	5	95

The relationship with party identification follows a similar pattern.

Original or evolving meaning by party identification

	Original meaning	Evolving meaning
Rep	69	31
Lean Rep	61	39
Independent	46	54
Lean Dem	19	81
Dem	24	76

As with ideology, the strength of the relationship with partisanship rises with knowledge. The correlation for the low-knowledge group is .25, for the medium-knowledge group it is .40, and for the high-knowledge group the correlation is .49.

Decision based on original or evolving meaning by party id by knowledge

Party ID	Low: Original	Low: Evolving	Med: Original	Med: Evolving	High: Original	High: Evolving
Rep	65	35	71	29	71	29
Lean Rep	46	54	69	31	61	39
Ind	45	55	56	44	35	65
Lean Dem	22	78	21	79	16	84
Dem	34	66	27	73	13	87

Party and ideology have very weak relationship to views of whether the justices base their decisions primarily on politics or the law. Neither of these relationships reaches statistical significance. In a highly polarized environment, this lack of relationship may serve as buffer to further politicization of the Court.

Decisions based on politics or law by ideology

	Mainly politics	Mainly the law
Very Con	25	75
Conservative	38	62
Moderate	34	66
Liberal	41	59

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Follow judicial philosophy, by original or evolving meaning

	Unimportant	Somewhat	Very
Original meaning	28	31	41
Evolving meaning	25	31	44

Statistically significant differences do emerge between originalist and evolving views and the role that empathy and good judgment should play in decisions, with those favoring an evolving view of the Constitution giving greater importance to both empathy and good judgment.

Empathy by original or evolving meaning

	Unimportant	Somewhat	Very
Original meaning	18	23	59
Evolving meaning	4	19	77

Good judgment by original or evolving meaning

	Unimportant	Somewhat	Very
Original meaning	13	31	56
Evolving meaning	7	20	72

CONFIDENCE AND LEGITIMACY

Confidence in the Court and other institutions

Confidence in the Supreme Court is higher than that for other branches and some other institutions, followed by confidence in the respondent’s state supreme court. Confidence in the presidency shows some polarization with more very-low and very-high ratings, while the Congress receives the lowest confidence rating.

Here is a list of institutions in American society. How much confidence do you have in each one?

	None	Very little	Some	Quite a lot	A great deal
U.S. Supreme Court	4	16	43	29	8
State Supreme Court	5	17	46	27	5
Presidency	25	22	25	15	13
Criminal Justice System	8	26	46	17	3
Congress	13	38	40	8	2

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For simplicity of presentation, subsequent analysis of confidence collapses this measure to three categories, combining “none” with “very little” and combining “quite a lot” with “a great deal”.

Confidence in institutions, three categories

	Low	Medium	High
U.S. Supreme Court	20	43	37
State Supreme Court	22	46	32
Presidency	47	25	28
Criminal Justice System	34	46	20
Congress	51	40	10

When respondents are asked to rank the three branches of the federal government, the Supreme Court inspires the most confidence by a substantial margin. This finding, consistent with much other public opinion research, points to the strength of the Court in the public mind vis-à-vis the other branches of the federal government.

Of the three branches of US government, which one do you trust the most?

Response	Percent
The U.S. Supreme Court (the judicial branch)	57
The U.S. Congress (the legislative branch)	22
The Presidency (the executive branch)	21

Who has confidence?

Those who are more aware of the U.S. Supreme Court generally express greater confidence in it. Familiarity breeds support in the case of the Court. General attention to politics is associated with greater confidence.

Confidence in Court by attention to politics

	Low	Medium	High
Low	32	48	20
Medium	17	46	37
High	18	36	46

Specific knowledge of the Court and the Constitution also is associated with greater confidence in the Court.

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Confidence in Court by knowledge score

	Low	Medium	High
Low	25	45	30
Medium	18	43	39
High	18	39	43

Awareness of the justices is associated with greater confidence in the Court.

Confidence in Court by awareness of the Justices

	Low	Medium	High
Low	25	49	26
Medium	20	40	40
High	16	37	47

Those who think the next appointment to the Court is important express more confidence in the Court.

Confidence in Court by importance of appointment

	Low	Medium	High
Not imp	33	43	24
Somewhat	17	50	33
Very important	17	37	45

Having read the Constitution does not have a significant relationship with confidence.

Confidence in Court by having read Constitution

	Low	Medium	High
Not read	21	43	36
Read	19	42	39

Political variables have some relationship with confidence. Independents have lower confidence than partisans, while Republicans have higher confidence than do Democrats.

Confidence in Court by party identification

	Low	Medium	High
Rep	14	32	54
Lean Rep	15	42	43

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Ind	31	46	23
Lean Dem	23	56	21
Dem	21	44	34

High confidence in the Court is associated with conservative ideology, and confidence declines from those with very conservative to very liberal beliefs.

Confidence in Court by liberal-conservative ideology

	Low	Medium	High
Very Con	13	36	52
Conservative	17	37	46
Moderate	21	46	34
Liberal	21	46	33
Very Lib	36	34	31

Ideological relationships with confidence in part depends on ideological agreement with the perceived ideology of the Court. Among those who perceive the Court as either very conservative or conservative, there is a sharp relationship between the respondent’s degree of conservatism and confidence in the Court.

Confidence in Court by ideology among those who see the Court as conservative

	Low	Medium	High
Very Con	1	8	91
Conservative	16	27	57
Moderate	22	46	32
Liberal	25	47	28
Very Lib	44	29	27

There is no relationship between confidence and ideology among those who see the Court as either moderate or liberal.

Confidence in Court by ideology among those who see the Court as moderate or liberal

	Low	Medium	High
Very Con	18	50	32
Conservative	17	41	42
Moderate	20	46	35
Liberal	16	45	39
Very Lib	28	38	34

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Institutional change

In the past one common measure of “legitimacy” was support for the current structure of the Supreme Court. With recent political divisions over the Court, we now find higher levels of support for changes to the existing structure. This suggests that support for institutional structures may be more strongly influenced by political disagreements as opposed to having roots in a broader sense of legitimacy.

A majority oppose increasing the number of justices, although over one in three somewhat favor an increase and 8 percent strongly favor a change.

[Increase the number of justices on the U.S. Supreme Court] How much do you favor or oppose the following proposals affecting the Supreme Court?

Response	Percent
Strongly favor	8
Favor	35
Oppose	40
Strongly oppose	17

There is majority support for setting a fixed term for justices to serve on the court, replacing the current life tenure.

[Have judges serve a fixed term on the Court rather than serving life terms] How much do you favor or oppose the following proposals affecting the Supreme Court?

Response	Percent
Strongly favor	34
Favor	38
Oppose	20
Strongly oppose	8

Restricting the power of judicial review has substantial though not majority support. Earlier we found widespread knowledge of the power of judicial review, so this support does not rest on lack of awareness. This would be a profound change.

[Limit the ability of the Supreme Court to review and set aside acts of Congress as unconstitutional] How much do you favor or oppose the following proposals affecting the Supreme Court?

Response	Percent
Strongly favor	8
Favor	30

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Oppose 43
Strongly oppose 19

Correlates of institutional stability

Those with higher knowledge of the Court and the Constitution are less supportive of each of the institutional changes.

Favor expanding Court by knowledge

	Strongly favor	Favor	Oppose	Strongly oppose
Low	10	42	37	11
Medium	8	34	40	18
High	6	27	43	24

Favor fixed terms for justices by knowledge

	Strongly favor	Favor	Oppose	Strongly oppose
Low	41	37	19	4
Medium	31	41	20	8
High	30	35	24	11

Favor limiting judicial review by knowledge

	Strongly favor	Favor	Oppose	Strongly oppose
Low	11	41	36	12
Medium	7	30	46	17
High	6	18	46	30

Partisanship plays a role in willingness to make changes to the number of justices, with Democrats more supportive, although even among strong Democrats support for expansion is evenly divided.

Favor expanding Court by party identification

	Strongly favor	Favor	Oppose	Strongly oppose
Rep	3	28	42	27
Lean Rep	4	31	35	30
Ind	14	40	33	14
Lean Dem	8	35	48	9
Dem	10	40	40	10

Support for fixed terms is independent of partisanship, with similar support across all party groups.

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Favor fixed terms for justices by party identification

	Strongly favor	Favor	Oppose	Strongly oppose
Rep	34	35	22	8
Lean Rep	34	35	20	11
Ind	32	40	19	9
Lean Dem	33	38	24	5
Dem	34	41	19	6

There are modest differences between partisans in support for limiting judicial review, with Republicans a little more supportive than Democrats, though the differences are small.

Favor limiting judicial review by party identification

	Strongly favor	Favor	Oppose	Strongly oppose
Rep	13	32	38	17
Lean Rep	6	21	49	24
Ind	11	34	37	18
Lean Dem	5	23	51	21
Dem	4	33	44	19

NOMINATIONS

Nearly half of respondents say that the next appointment to the Supreme Court is very important to them, with another 31 percent saying that it is somewhat important. Fifteen percent say it is not too important and 7 percent say the appointment is not at all important.

How important is the choice of the next Supreme Court justice to you personally??

Response	Percent
Not at all	7
Not too	15
Somewhat	31
Very	47

In subsequent analysis the “not at all” and “not too” important categories are combined as “not important.”

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Those who are more knowledgeable about the Constitution and the Court are more likely to rate an appointment as important. Those least knowledgeable are evenly spread across the categories of importance, while 60 percent of those in the high-knowledge group rate the next appointment as very important, with only 10 percent saying it is not important.

Importance of next appointment by knowledge

	Not impt	Somewhat	Very important
Low	32	34	33
Medium	21	30	49
High	10	30	60

An even sharper gradient in importance is associated with general interest in politics, with half of the least attentive rating the next appointment not important while 70 percent of the most attentive rating it very important.

Importance of next appointment by attention to politics

	Not impt	Somewhat	Very important
Low	50	32	18
Medium	22	41	37
High	7	23	70

Those who are more strongly attached to a party or an ideology are also considerably more likely to think appointments are important.

Importance of next appointment by strength of party identification

	Not impt	Somewhat	Very important
Ind	43	28	29
Lean	16	39	44
Partisan	17	29	53

Importance of next appointment by strength of ideology

	Not impt	Somewhat	Very important
Moderate	29	36	35
Lib or Con	16	29	55
Very Lib/Con	11	23	66

While strength of party identification or ideology has a substantial effect on importance, the differences between Democrats and Republicans and between liberals and conservatives are relatively modest. Republican-leaning independents

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assign less importance than Democratic-leaning independents, but pure partisans hardly differ.

Importance of next appointment by party identification

	Not impt	Somewhat	Very important
Rep	18	29	53
Lean Rep	19	42	39
Ind	43	28	29
Lean Dem	13	37	50
Dem	17	30	54

Those who consider themselves very liberal assign more importance to the next appointment than those who are very conservative, and similarly for those who are liberal compared to those who are conservative. Moderates give substantially less importance to the next appointment.

Importance of next appointment by ideology

	Not impt	Somewhat	Very important
Very Con	12	28	60
Conservative	18	30	51
Moderate	29	36	35
Liberal	13	27	60
Very Lib	9	18	73

Faith tradition plays only a modest role in the importance assigned to Court appointments. Born-again or evangelical Christians, Roman Catholics, and those of other faiths rate appointments as a bit more important than do mainline Protestants or the nonreligious.

Importance of next appointment by religion

	Not impt	Somewhat	Very important
Born-again	17	30	52
Mainline	28	32	41
Catholic	15	34	50
Other	15	28	57
Nonreligious	27	30	43

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The frequency of religious worship is also only weakly related to the importance of appointments, although those who attend worship weekly give a somewhat higher importance than those who attend less regularly.

Importance of next appointment by frequency of attendance at religious services

	Not impt	Somewhat	Very important
Never	26	29	45
Seldom	27	28	44
Few Per Year	21	36	43
Monthly	18	45	37
Weekly	14	28	58

Opposition to nominees

The confirmation of nominees to both the Supreme Court and lower federal courts has grown far more contentious over the past several decades. During this period, opposition based on expected policy differences and based on partisanship, which once was rare, has become common.

While partisan and policy differences have come to dominate elite debate over nominations, substantial majorities of the public say that these are not sufficient reasons to reject an otherwise qualified nominee.

Fewer than 40 percent say that a senator would be justified in rejecting an otherwise-qualified nominee, with no ethical problems, based on how the senator believes the nominee would decide cases. More than 60 percent say this is not a justification for rejecting a nominee.

If a nominee for the U.S. Supreme Court is qualified and has no ethical problems, would U.S. senators be justified or not justified in voting against that nominee simply because of how they believe the justice would decide cases on issues such as abortion, gun control, or affirmative action?

Response	Percent
Justified	38
Not justified	62

Partisan objections to a nominee are seen as even less justified, with more than 80 percent saying that rejecting a qualified nominee simply because of party is not justified, with 19 percent saying that this is reason enough for a vote against confirmation.

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If a nominee for the US Supreme Court is qualified and has no ethical problems, would US Senators be justified or not justified in voting against that nominee simply because the Senator is from a different political party?

Response	Percent
Justified	19
Not justified	81

Rejection due to partisan (i.e., party) differences is equally disapproved across party identification, ideology, and strength of party identification or ideology. While party and policy are inextricably linked, the public does not support partisan differences as the sole basis of confirming or rejecting Court nominees.

Rejecting nominees based on how they are believed likely to rule on cases is somewhat more dependent on the respondent’s party and ideology. While Democratic and Republican differences are not statistically significant, independents are significantly more likely to say rejection based on policy differences is not justified.

Reject nominee over policy by party identification

	Justified	Not justified
Rep	37	63
Lean Rep	34	66
Ind	26	74
Lean Dem	43	57
Dem	44	56

Those who say that the next appointment is important are more likely to say that rejecting a nominee on policy grounds is justified. This does not carry over to rejection on partisan grounds, however, where there are no significant differences. Even among those who rate the next appointment as very important, less than half say this is justified on policy grounds, and only one in five say so on party grounds.

Reject nominee over policy by importance of next appointment

	Justified	Not justified
Not imp	29	71
Somewhat	38	62
Very important	42	58

Reject nominee over party by importance of next appointment

	Justified	Not justified
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Not imppt	15	85
Somewhat	20	80
Very important	21	79

Those who are most attentive to politics are also more willing to justify rejection of a nominee on policy grounds, but not willing to do so over partisan differences. As with the importance assigned to the next nominees, more than half of those who pay the most attention to politics say that rejecting a qualified nominee on policy grounds is not justified, and over 80 percent say so of partisan grounds.

Reject nominee over policy by attention to politics

	Justified	Not justified
Low	29	71
Medium	38	62
High	42	58

Reject nominee over party by attention to politics

	Justified	Not justified
Low	20	80
Medium	22	78
High	17	83

Confirmations during an election year

The decision by Senate majority leader McConnell in 2016 not to hold hearings on any nominee by President Obama to replace the late Justice Antonin Scalia was controversial. For the mass public this action was, in retrospect at least, not the right thing to do.

In February 2016, following the death of Justice Antonin Scalia, Republican Senate Majority Leader Mitch McConnell announced that the Senate would not consider or hold hearings on any nominee President Obama might name during an election year. In March, Obama nominated Judge Merrick Garland to the Supreme Court. The Senate did not hold a hearing and the nomination expired in January 2017. Was not holding a hearing on the nomination the right thing or the wrong thing to do?

Response	Percent
Right thing to do	27
Wrong thing to do	73

The possibility of a nomination during the 2020 election year faces the question of consistency with the 2016 precedent. Most respondents believe that a nomination in

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2020 should result in hearings. However, nearly one in three now believe that hearings should not be held in an election year.

If there is a vacancy on the Supreme Court during the 2020 presidential election year and President Trump nominates someone what should the Senate do?

Response	Percent
Hold hearings	69
Not hold hearings	31

Views of the lack of hearings in 2016 are strongly related to partisanship, with Republicans more likely to say the refusal to consider a nomination was the right thing to do, although even among Republicans a slight majority say that it was the wrong decision, as do nearly nine in ten Democrats.

No confirmation hearings in 2016 by party identification

	Right thing to do	Wrong thing to do
Rep	45	55
Lean Rep	34	66
Ind	30	70
Lean Dem	13	87
Dem	13	87

As for holding hearings if a 2020 vacancy were to occur, Republicans strongly support hearings in a presidential election year, while nearly four in ten Democrats say no hearings should occur.

Hold confirmation hearings in 2020 by party identification

	Hold hearings	Not hold hearings
Rep	72	28
Lean Rep	81	19
Ind	76	24
Lean Dem	62	38
Dem	63	37

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PERCEIVED IDEOLOGICAL BALANCE OF THE SUPREME COURT

A simple ideological perception of the Court may vastly oversimplify the complexity of judicial decisions and of the makeup of the Court. To ordinary citizens, lacking legal training or inclination, a simple ideological perspective may nonetheless serve to simplify this complexity. Coupled with increased partisanship in nominations, this oversimplification may still serve.

Despite partisan battles over the Court in recent decades, a bare majority consider the Court to occupy a “moderate” position on the liberal-conservative dimension. Considerably more, 39 percent, consider the Court conservative than the 12 percent who consider it liberal.

It is worth noting that few respondents see the court as extreme in either ideological direction, with only 9 percent combined saying that it is either very conservative or very liberal.

In general, would you describe the US Supreme Court as very conservative, conservative, moderate, liberal or very liberal?

Response	Percent
Very conservative	6
Conservative	33
Moderate	50
Liberal	9
Very liberal	3

These perceptions are somewhat related to knowledge or attention to politics. While there is little difference in perception of the Court among those low or medium in knowledge, among the high-knowledge group a majority, 54 percent, call the Court conservative or very conservative. A majority of both groups of less knowledgeable respondents say the Court is moderate.

Even among the most knowledgeable, the view holds that the Court is not extreme in ideology, with only 7 percent saying it is very conservative and 2 percent calling it very liberal.

Perceived ideology of the Court by knowledge

	Very conservative	Conservative	Moderate	Liberal	Very liberal
Low	4	23	56	14	3
Medium	6	30	54	7	3

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A similar pattern holds for general attention to politics. Those most attentive split evenly between calling the Court conservative or moderate, with 41 percent in each category. For the less attentive, majorities place the court at the middle of the ideological scale.

Perceived ideology of the Court by attention to politics

	Very conservative	Conservative	Moderate	Liberal	Very liberal
Low	3	24	62	7	5
Medium	5	29	55	10	1
High	7	41	41	8	3

Partisans frequently project their views on political institutions. In the case of the Court, a majority of Democrats and independents who lean Democratic see the court as conservative or very conservative. Independents and Republicans are much more likely to call the Court moderate, with about 60 percent of each group placing the Court at the middle on ideology. None of the partisan categories sees an especially extreme Court, once more showing the Court is seen as being to the middle, with the public view tilting a bit more one way or the other depending on knowledge, attention, or partisanship.

Perceived ideology of the Court by party identification

	Very conservative	Conservative	Moderate	Liberal	Very liberal
Rep	4	23	58	11	3
Lean Rep	2	27	61	9	2
Ind	2	23	64	6	5
Lean Dem	10	50	35	5	0
Dem	8	42	38	9	2

Perception of the Court’s ideology is somewhat affected by one’s own ideological preferences. Very conservative and conservative respondents are a bit more likely to describe the Court as liberal while about half of liberal and very liberal respondents see the Court as conservative or very conservative.

Perceived ideology of the Court by self-placement on ideology

	Very conservative	Conservative	Moderate	Liberal	Very liberal
Very Con	6	27	43	21	3
Conservative	2	26	54	15	3
Moderate	6	31	55	6	1

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Liberal	8	45	40	3	3
Very Lib	9	40	34	7	11

Some of this difference in perception is related to systematic misperception of the makeup of the Court’s majority. Thirty-five percent of conservative or very conservative respondents believe a majority of the Court was appointed by Democratic presidents, compared to 27 percent among moderate, liberal, or very liberal respondents.

Beliefs about the makeup of the Court in terms of party of the appointing president structure perception of the Court’s ideological tilt.

The public is tentative in claiming to know which party’s presidents have appointed a majority of the justices. Only 19 percent are definite in their belief that a majority of the Court has been appointed by Republican presidents, while 4 percent are definite, and incorrect, that a majority were nominated by a Democratic president. Of the tentative middle, 54 percent say the majority were probably Republican appointees, while nearly a quarter, 23 percent, think a Democrat probably appointed the majority.

What is your guess as to whether a majority of the current US Supreme Court Justices were appointed by Democratic or Republican presidents?

Response	Percent
Definitely Dem Majority	4
Probably Dem Majority	23
Probably Rep Majority	54
Definitely Rep Majority	19

Of those who are most clear and correct about the majority, over half perceive a conservative Court, with 10 percent more saying it is very conservative. For those more tentative as to a Republican majority or those incorrect in perceiving a Democratic majority, at least a majority describe the Court as moderate.

Perceived ideology of the Court by appointing-party majority

	Very conservative	Conservative	Moderate	Liberal	Very liberal
Definitely Dem Majority	3	6	53	32	5
Probably Dem Majority	4	14	62	14	6
Probably Rep	5	37	51	6	1

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Majority

Definitely Rep Majority	10	53	30	4	3
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The consequences of ideological perceptions for confidence in the Court are as follows. The very few respondents who perceive the Court to be ideologically extreme (a total of 8 percent) express exceptionally low levels of confidence in the institution. Among those perceiving a conservative or moderate Court, confidence is equal and relatively high, while those seeing a liberal Court have somewhat less confidence.

Confidence in Court by perceived ideology of Court

	Low	Medium	High
Very conservative	50	28	22
Conservative	18	41	41
Moderate	15	44	41
Liberal	29	53	18
Very liberal	65	21	13

DECISIONS

Preferences on past and potential decisions

We asked about a total of 14 cases. We described seven past decisions and seven possible future decisions. In the latter group, we based some descriptions on actual cases, while others were hypothetical, and we did not indicate whether such a description was based on an actual as opposed to hypothetical case. Our choice of topics reflects recent and current cases that have received widespread news coverage. In all cases, we adopted common journalistic language to describe the outcome or consequences of decisions, rather than attempting a fuller syllabus for each case. With the exception of *Roe v. Wade*, we did not identify cases by name.

Opinion of past cases

Past decisions describe rulings on same-sex marriage, use of race in college admissions, a ban on travel to the United States from Muslim-majority countries, coverage of birth control in employee health plans, campaign spending by

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corporations and unions, partisan gerrymandering, and an individual’s right to possess a firearm.

Public views of these actual or possible decisions vary. In some cases, a majority support past decisions while in others the majority do not agree. In future cases, there are some possible outcomes that receive more popular support than others.

The full question wording and the short description used in the tables below follow.

- Past decisions: “How much do you favor or oppose the following recent Supreme Court decisions?”
 - **Corporate political spending** “Decided that corporations and unions can spend unlimited amounts of money to directly support or oppose political candidates.”
 - **Race in admissions** “Decided colleges can use race as one factor in deciding which applicants to admit.”
 - **Partisan Gerrymanders** “Decided that federal courts lack the constitutional authority to rule on cases involving legislative and congressional district boundaries designed to favor one political party (known as gerrymanders).”
 - **Exclude birth control coverage** “Decided that privately-held for-profit companies may choose not to pay for coverage of prescription birth control in their workers’ health plans if the company’s owner has religious objections.”
 - **Upheld travel ban** “Upheld President Donald Trump’s travel ban against citizens of five Muslim-majority countries.”
 - **Same-sex marriage** “Established a constitutional right for same-sex couples to marry.”
 - **Right to firearm** “The Second Amendment reads: ‘A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.’ In 2008 the Court ruled that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.”

Public views of past decisions.

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Corporate political spending	53	22	11	3	10
Race in admissions	57	21	11	4	7
Partisan Gerrymanders	26	19	15	11	29

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Exclude birth control coverage	44	19	13	14	10
Upheld travel ban	33	16	19	23	10
Same-sex marriage	23	13	20	36	9
Right to firearm	11	13	27	40	8

Possible future decisions

Some of the future decisions are taken from cases currently on the Court’s docket while others are hypothetical. These questions asked how much the respondent would favor or oppose the outcome as described. Possible decisions included overturning *Roe v. Wade*; striking down the Affordable Care Act; allowing religious business owners to deny services to gay people; allowing the Trump administration to end the DACA program; extending protections against employment discrimination to cover gay, lesbian and transgender individuals; allowing public funds that support students attending private schools to also include those attending religious schools; and deciding that a ban on semi-automatic rifles violates the Second Amendment. The full question wording and the short description used in the tables below (and in the subsequent section headings) follows.

- Possible future decisions: “How much do you favor or oppose the following possible Supreme Court decisions?”
 - **Overturn Roe v. Wade** “Overturn Roe versus Wade, thus strike down the 1973 decision that made abortion legal in all 50 states.”
 - **End DACA** “Decide the administration can end the DACA program that allows young people who were brought to the United States illegally as children to register and avoid immediate deportation.”
 - **Deny service to gay people** “Decide that a business owner’s religious beliefs or free speech rights can justify refusing some services to gay people.”
 - **Public funds for religious school students** “Decide that a program that financially supports students attending private schools may also include religious schools without violating the constitution.”
 - **Strike down ACA** “Strike down the 2010 health care reform law, also called Obamacare, by declaring it unconstitutional.”
 - **2nd Amend. prohibits semi-automatic rifle ban** “Decide that a ban on semi-automatic rifles violates the 2nd amendment and thus is unconstitutional.”
 - **Employment discrimination includes LGBTQ** “Decide that laws prohibiting employment discrimination on the basis of sex also apply to discrimination based on sexual orientation of gay, lesbian or transgender individuals.”

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Public views of possible future decisions.

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Overturn Roe v. Wade	47	14	13	16	9
End DACA	37	16	20	17	9
Deny service to gay people	40	17	15	19	9
Public funds for religious school students	17	16	31	22	14
Strike down ACA	35	17	15	23	10
2nd Amend. prohibits semi-automatic rifle ban	36	17	14	25	8
Employment discrimination includes LGBTQ	18	12	22	39	9

Public support and opposition for decisions past and future

Cases vary in salience with the public, but for each of the 14 cases on which we asked the respondent’s opinion there were statistically significant effects of partisanship and ideology, all properly aligned with conventional notions of liberal and conservative directions of the decisions.

In the tables below we proceed from the case which is most strongly structured by the combination of party and ideology (opinion on overturning the Affordable Care Act) to the case least structured by party and ideology (the consideration of race in college admissions). The degree of structuring is measured by the percent of variance explained (“R-square”) by a regression of opinion about the decision on party identification and liberal-conservative ideology. This measure can range from zero (no structure at all) to 100 percent (a perfect fit).

The extent to which party and ideology structure these views varies considerably, from explaining as little as 3.5 percent of the variance in decision preference to explaining as much as 47 percent of the variance.

Fewer than 10 percent of respondents said they lacked an opinion on these cases, with the exception of corporate political spending (10.3 percent), public funds for religious school students (14.0 percent), and partisan gerrymanders (29.1 percent).

While simply offering a favorable or unfavorable view of each case does not qualify as deep understanding of the issues, the fact that opinion consistently aligns with both party and ideology attests to the ability of political preferences to structure citizens’ views of cases before the Court.

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Case: Strike down ACA

On balance, respondents oppose overturning the Affordable Care Act.

[Strike down the 2010 health care reform law, also called Obamacare, by declaring it unconstitutional] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	35
Oppose	17
Favor	15
Str Favor	23
Don't know	10

Opinion on this issue is strongly related to party identification and to ideology. Party and ideology explain 47 percent of the variance in opinion.

Position on decision to strike down ACA by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	7	11	23	51	9
Lean Rep	10	18	27	41	5
Ind	25	22	22	12	18
Lean Dem	52	27	5	3	13
Dem	66	17	4	6	7

Position on decision to strike down ACA by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	3	16	7	70	4
Conservative	11	11	25	45	8
Moderate	32	22	18	14	13
Liberal	67	18	3	6	6
Very Lib	79	4	3	5	9

Case: Upheld travel ban

A majority oppose the decision upholding the Trump administration travel ban on citizens from Muslim-majority countries.

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[Upheld President Donald Trump’s travel ban against citizens of five Muslim-majority countries] How much do you favor or oppose the following recent Supreme Court decisions?

Response	Percent
Str Oppose	33
Oppose	16
Favor	19
Str Favor	23
Don’t know	10

Opinion on the Court’s ruling upholding President Trump’s travel ban against citizens from five Muslim-majority countries is almost as strongly structured by partisanship and ideology as is opinion on the ACA, explaining 41 percent of the variance.

Position on decision to uphold travel ban by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Rep	7	8	23	56	7
Lean Rep	6	10	30	41	13
Ind	27	25	21	11	15
Lean Dem	52	19	11	6	12
Dem	59	17	13	3	8

Position on decision to uphold travel ban by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Very Con	9	10	15	60	6
Conservative	10	8	25	49	8
Moderate	29	21	23	15	12
Liberal	59	15	10	7	9
Very Lib	80	10	2	6	3

Case: Deny service to gay people

Opinions on issues involving LGBTQ people vary in how strongly structured they are by partisanship and ideology. The issue most strongly structured is whether religious beliefs of business owners can justify refusing service to gay people.

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A majority oppose a ruling that would allow a business to refuse service to gay people.

[Decide that a business owner’s religious beliefs or free speech rights can justify refusing some services to gay people] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	40
Oppose	17
Favor	15
Str Favor	19
Don’t know	9

Opinion on this issue is strongly related to party identification and to ideology, with 31 percent of the variance in opinion explained.

Position on decision to allow business to refuse service to gay people by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Rep	20	12	19	40	8
Lean Rep	23	12	19	36	9
Ind	32	17	20	14	17
Lean Dem	53	24	13	4	6
Dem	59	21	10	6	5

Position on decision to allow business to refuse service to gay people by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Very Con	7	15	12	57	9
Conservative	12	14	24	44	5
Moderate	42	19	17	10	12
Liberal	64	20	8	6	3
Very Lib	76	5	4	5	9

Case: Exclude birth control coverage

Religious objections also arise in the case of a business’s declining to provide birth control as part of an employee health plan.

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A majority oppose allowing businesses to deny birth control coverage in their employee insurance plans.

[Decided that privately-held for-profit companies may choose not to pay for coverage of prescription birth control in their workers’ health plans if the company’s owner has religious objections] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	44
Oppose	19
Favor	13
Str Favor	14
Don’t know	10

Twenty-eight percent of the variance in opinion on this case explained by party and ideology.

Position on decision to allow business to deny birth control coverage by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Rep	23	17	21	31	7
Lean Rep	24	20	20	27	9
Ind	46	18	14	7	16
Lean Dem	57	19	10	1	13
Dem	63	21	5	3	8

Position on decision to allow business to deny birth control coverage by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don’t know
Very Con	14	17	13	49	7
Conservative	23	16	24	30	8
Moderate	44	25	12	6	13
Liberal	67	13	9	2	8
Very Lib	84	4	3	6	3

Case: Overturn Roe v. Wade

Roe v. Wade has been at the center of political controversy since it was decided in 1973. If there is any surprise here, it is that it is not the most strongly structured case by partisanship and ideology.

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A majority of respondents oppose overturning Roe.

[Overturn Roe versus Wade, thus strike down the 1973 decision that made abortion legal in all 50 states] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	47
Oppose	14
Favor	13
Str Favor	16
Don't know	9

Just over one-quarter (27 percent) of the variance in opinion is explained by party and ideology.

Position on decision to overturn Roe v. Wade by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	26	18	15	31	11
Lean Rep	26	15	23	26	10
Ind	37	17	20	9	17
Lean Dem	65	15	12	2	6
Dem	70	11	6	8	5

Position on decision to overturn Roe v. Wade by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	9	11	20	58	3
Conservative	22	17	20	32	9
Moderate	46	18	14	8	14
Liberal	77	10	5	4	3
Very Lib	84	1	3	8	4

Case: Same-sex marriage

Support for the Court's decision to establish a constitutional right to marriage for same-sex couples receives majority support.

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[Established a constitutional right for same-sex couples to marry] How much do you favor or oppose the following recent Supreme Court decisions?

Response	Percent
Str Oppose	23
Oppose	13
Favor	20
Str Favor	36
Don't know	9

As with the previous two decisions, just over one-quarter (27 percent) of the variance in opinion is explained by party and ideology.

Position on decision establishing a right to same-sex marriage by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	42	19	17	16	7
Lean Rep	34	10	22	24	10
Ind	15	14	27	29	15
Lean Dem	6	9	21	59	5
Dem	13	9	19	51	8

Position on decision establishing a right to same-sex marriage by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	54	21	9	8	7
Conservative	43	20	19	8	10
Moderate	17	11	26	34	12
Liberal	8	6	17	66	2
Very Lib	9	5	5	79	1

Case: Right to firearm

Debates over the extent to which the Second Amendment protects individual gun possession has also structured political conflict in recent decades. In this case the question was framed in language drawing on Justice Scalia's opinion for the Court, which stated that the Second Amendment “protects an individual right to possess a firearm . . . and to use that arm for traditionally lawful purposes, such as self-defense within the home.”

A substantial majority favor the Court's decision in this case.

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In 2008 the Court ruled that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia ... How strongly do you favor or oppose that decision?

Response	Percent
Str Oppose	11
Oppose	13
Favor	27
Str Favor	40
Don't know	8

Party and ideology structure opinion on this decision, accounting for just under a quarter of the variance (22 percent).

Position on 2nd amendment right to firearms by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	4	4	15	73	4
Lean Rep	2	7	17	67	7
Ind	8	20	25	32	16
Lean Dem	15	14	46	20	6
Dem	21	17	36	18	8

Position on 2nd amendment right to firearms by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	1	11	7	76	4
Conservative	4	10	15	66	5
Moderate	8	12	34	35	10
Liberal	22	15	36	20	6
Very Lib	38	17	17	18	10

Case: End DACA

We now move to issues that are less strongly structured by party and ideology, though there are still statistically significant relationships with both.

A potential court ruling allowing the administration to end the DACA program is opposed by a majority of respondents.

[Decide the administration can end the DACA program that allows young people who were brought to the United States illegally as children to register and avoid immediate

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deportation] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	37
Oppose	16
Favor	20
Str Favor	17
Don't know	9

While both party and ideology have statistically significant effects on views of this issue, the variance explained is below 20 percent (17 percent).

Position on allow administration to end DACA by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	21	18	29	25	8
Lean Rep	21	16	30	23	10
Ind	22	17	28	19	15
Lean Dem	55	23	10	7	4
Dem	58	12	10	12	8

Position on allow administration to end DACA by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	12	22	26	34	5
Conservative	16	17	30	29	8
Moderate	36	18	23	11	11
Liberal	61	10	9	14	6
Very Lib	78	3	2	13	5

Case: Public funds for religious school students

Public funding for religious schools has been controversial. We asked about a case posing the issue of whether a funding program that covers students attending private schools may constitutionally also cover students attending religious schools.

A majority support allowing such funding to go to students attending religious schools.

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[Decide that a program that financially supports students attending private schools may also include religious schools without violating the constitution] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	17
Oppose	16
Favor	31
Str Favor	22
Don't know	14

Party and ideology structure opinion on this case, with 15 percent of the variance explained.

Position on allowing public funds to support students at religious schools by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	7	11	35	36	12
Lean Rep	9	11	34	37	11
Ind	16	13	36	15	21
Lean Dem	29	19	23	15	14
Dem	25	22	28	12	13

Position on allowing public funds to support students at religious schools by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	6	16	28	43	7
Conservative	7	11	36	36	10
Moderate	15	15	34	18	17
Liberal	29	21	26	11	13
Very Lib	38	20	14	11	17

Case: Partisan Gerrymanders

In 2019, the Court ruled that gerrymanders based on political advantage were beyond the reach of the federal courts.

Despite the intense interest in this case among the most politically active citizens and party organizations, this decision did not register with some 29 percent of respondents, who said they didn't have a position on it. A plurality, 45 percent, oppose the decision, while 26 percent favor it.

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[Decided that federal courts lack the constitutional authority to rule on cases involving legislative and congressional district boundaries designed to favor one political party (known as gerrymanders)] How much do you favor or oppose the following recent Supreme Court decisions?

Response	Percent
Str Oppose	26
Oppose	19
Favor	15
Str Favor	11
Don't know	29

Political activists were intensely concerned with this case, but among rank-and-file citizens party and ideology account for only 11 percent of the variance in opinion.

Position on authority of federal courts to rule on political gerrymanders by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	13	19	21	13	34
Lean Rep	16	16	24	21	23
Ind	22	19	13	9	36
Lean Dem	37	17	16	7	24
Dem	40	20	9	7	25

Position on authority of federal courts to rule on political gerrymanders by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	14	27	20	18	21
Conservative	15	16	23	16	31
Moderate	22	20	15	10	33
Liberal	45	14	9	7	24
Very Lib	57	18	2	5	18

Case: 2nd Amend. prohibits semi-automatic rifle ban

Respondents were asked about a hypothetical decision overturning a ban on semi-automatic rifles based on the 2nd amendment. A majority oppose such a decision.

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[Decide that a ban on semi-automatic rifles violates the 2nd amendment and thus is unconstitutional] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	36
Oppose	17
Favor	14
Str Favor	25
Don't know	8

Party and ideology provide only modest structuring of opinion on this issue, though both have small but statistically significant effects. The variance explained is 11 percent.

Position on striking down ban on semi-automatic rifles by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	22	17	15	40	7
Lean Rep	23	12	23	34	7
Ind	23	23	16	21	16
Lean Dem	53	18	13	9	6
Dem	52	15	9	19	5

Position on striking down ban on semi-automatic rifles by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	20	11	24	44	1
Conservative	24	16	19	33	8
Moderate	34	21	13	22	9
Liberal	48	15	7	23	8
Very Lib	70	8	7	10	5

Case: Employment discrimination includes LGBTQ

The last three issues are very weakly structured by party or ideology, though no more than 10 percent of respondents say that they lack an opinion on each.

A case before the Court this term considers whether a law (Title VII of the Civil Rights Act of 1964) prohibiting employment discrimination on the basis of sex also applies to discrimination based on sexual orientation for gay, lesbian, or

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transgender people. A clear majority favor extending anti-employment discrimination protections in this case.

[Decide that laws prohibiting employment discrimination on the basis of sex also apply to discrimination based on sexual orientation of gay, lesbian or transgender individuals] How much do you favor or oppose the following possible Supreme Court decisions?

Response	Percent
Str Oppose	18
Oppose	12
Favor	22
Str Favor	39
Don't know	9

On this issue partisanship and ideology provide only a trace of structure to opinion, explaining just 6 percent of the variance.

Position on applying sex discrimination in employment to LGBTQ people by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	19	20	26	24	11
Lean Rep	15	15	25	33	11
Ind	15	8	28	32	17
Lean Dem	14	8	19	57	3
Dem	21	8	17	50	4

Position on applying sex discrimination in employment to LGBTQ people by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	28	19	23	21	8
Conservative	21	20	26	19	13
Moderate	16	11	28	36	9
Liberal	18	8	9	62	3
Very Lib	16	2	7	70	4

Case: Corporate political spending

The 2010 ruling in *Citizens United v. FEC*, allowing corporations and unions to spend unlimited amounts of money to support or oppose political candidates, is widely opposed.

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[Decided that corporations and unions can spend unlimited amounts of money to directly support or oppose political candidates] How much do you favor or oppose the following recent Supreme Court decisions?

Response	Percent
Str Oppose	53
Oppose	22
Favor	11
Str Favor	3
Don't know	10

Opposition to this decision is widespread across both party and ideology, accounting for the low variance explained of just five percent.

Position on Citizens United by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	44	24	16	7	10
Lean Rep	46	30	11	6	8
Ind	48	20	12	1	18
Lean Dem	68	15	6	2	8
Dem	62	21	8	1	8

Position on Citizens United by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	51	26	11	8	5
Conservative	39	28	18	4	10
Moderate	51	23	11	2	12
Liberal	68	16	5	3	8
Very Lib	77	10	6	2	5

Case: Race in admissions

The use of race as one factor in college admissions has been upheld by the Court since the 1978 *Bakke* decision, including the recent decision in *Fisher v. University of Texas* in 2016. Despite this history, the public is substantially opposed to this use of race in admissions.

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*[Decided colleges can use race as one factor in deciding which applicants to admit]
How much do you favor or oppose the following recent Supreme Court decisions?*

Response	Percent
Str Oppose	57
Oppose	21
Favor	11
Str Favor	4
Don't know	7

As with *Citizens United*, opposition to this decision is widespread across both party and ideology, accounting for the extremely low variance explained of just under 5 percent. Despite the very low explanatory power, the effects of both party and ideology manage to barely reach statistical significance.

Position on use of race in college admissions by party ID

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Rep	63	26	4	2	4
Lean Rep	67	22	4	1	6
Ind	50	20	9	5	15
Lean Dem	52	22	16	7	2
Dem	54	17	18	4	7

Position on use of race in college admissions by ideology

	Str Oppose	Oppose	Favor	Str Favor	Don't know
Very Con	68	21	3	4	3
Conservative	59	28	7	1	5
Moderate	57	23	8	4	8
Liberal	53	16	20	4	8
Very Lib	52	4	23	16	4

Summary

In summary, opinions about Supreme Court decisions are generally structured by partisan and ideological identification, although the strength of that structuring varies widely across cases. In no case did we find an utter lack of structuring, and in seven of fourteen cases party and ideology explained over 20 percent of the variance in opinion.

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While the public is unlikely to understand the legal issues in detail, the political and ideological signals about the cases allow the public some rough positioning that comports to some extent with their policy preferences.

POLITICS

Let us turn to how politics affect views of the Court and how views of the Court affect votes.

It would be incorrect to claim that politics have not been an integral part of the Supreme Court and nominations to the Court since the founding. Recent decades have nonetheless seen a visible increase in partisan rancor over nominations to the Supreme Court as well as lower federal courts.

In previous sections we have seen how partisan and ideological attachments structure many perceptions of the Court and of its decisions. In a republic where politics are structured by party and ideology and where federal judges and justices are nominated and confirmed by partisan elected officials, it would be surprising were this not the case.

Partisan and ideological structuring is also likely a result of the need for citizens to simplify the overwhelming complexity of the law and Court decisions. Those without legal training and not engaged in the practice of law can hardly be expected to develop a deep understanding of the issues facing the Court.

While debate over nominations has been intense at times, the direct linkage of politics to nominations to the Supreme Court rose in salience with the death of Justice Scalia in February 2016 and the ensuing delay in filling the vacancy. The 2016 election also explicitly connected nominations with the presidential candidates, most clearly in candidate Donald Trump’s release of a “short list” from which he pledged to select nominees to the Court. It is therefore of interest to examine how citizens connect their perceptions of the judicial branch to the politics of presidential campaigns.

Perception of the justices

In an earlier section, we saw the public’s limited awareness of the justices, with the ability to assign a favorable or unfavorable view ranging from as low as 16 percent (Justice Beyer) to as high as 59 percent (Justice Ginsburg). Here we shift the focus to the favorable or unfavorable ratings given to the justices, and in particular the question of whether these perceptions are systematically structured. With low visibility and limited information about the justices, it is plausible there is very little structure to the evaluations. We might well expect little structure to perceptions at least for the less visible members of the Court.

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The favorability ratings of the justices are shown in the table below.

Some justices of the Supreme Court are better known than others. For each of these names have you never heard of them, heard of them but don't know enough to have an opinion of them, have a favorable opinion or have an unfavorable opinion?

	Unfavorable	Unable to rate	Favorable
Breyer	5	84	11
Kagan	7	78	15
Alito	8	78	15
Gorsuch	12	70	18
Roberts	9	66	25
Sotomayor	11	59	30
Thomas	23	49	28
Kavanaugh	32	42	26
Ginsburg	17	41	41

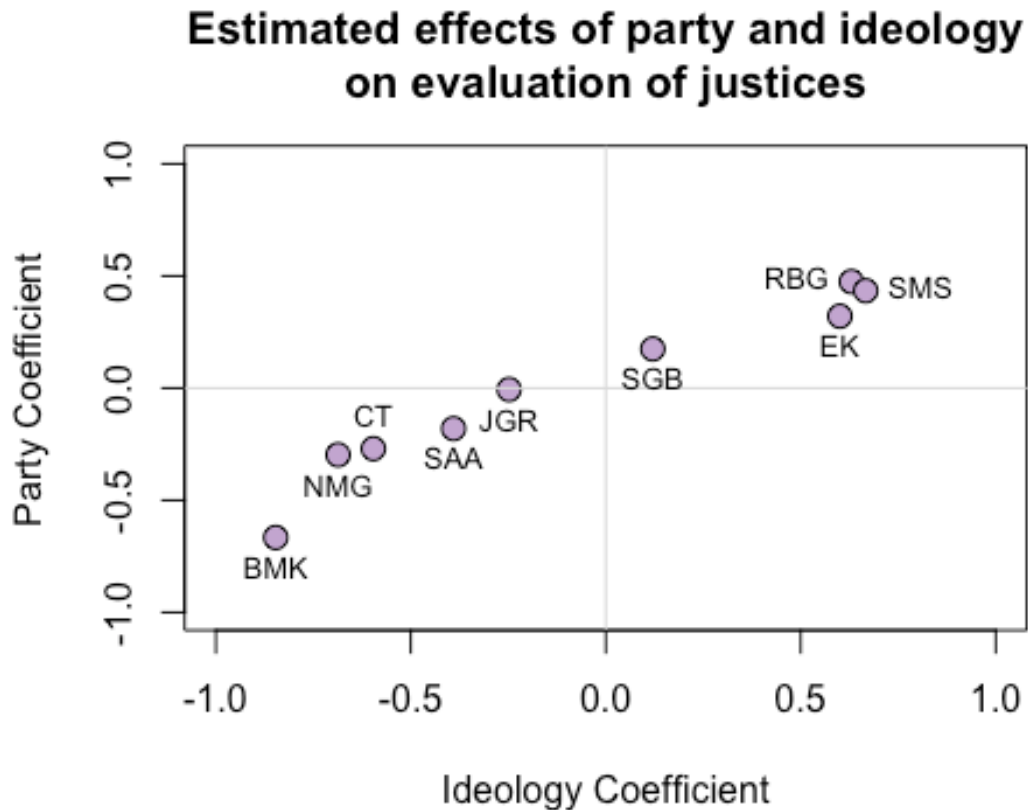
In fact, party and ideology are consistent and statistically significant predictors of attitude toward each justice, with the exceptions of Chief Justice Roberts for whom party identification has an insignificant coefficient and of Justice Breyer for whom the ideology coefficient is not significant. For each other justice both party and ideology have statistically significant coefficients and in the expected direction. Liberals and Democrats are more favorable toward Ginsburg, Kagan, and Sotomayor, while conservatives and Republicans are more favorable to Alito, Gorsuch, Kavanaugh, and Thomas.

Coefficients for party identification and liberal-conservative ideology as predictors of favorable or unfavorable opinion of each justice (All are statistically significant except party for Roberts and ideology for Breyer)

Justice	Party	Ideology
Alito	-0.181	-0.390
Breyer	0.175	0.121
Ginsburg	0.475	0.630
Gorsuch	-0.298	-0.686
Kagan	0.321	0.600
Kavanaugh	-0.666	-0.846
Roberts	-0.006	-0.248
Thomas	-0.270	-0.596
Sotomayor	0.434	0.667

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The effects of party and ideology on perception of the justices are shown in the figure below.



Justices Ginsburg, Kagan, and Sotomayor cluster together, with opinion of Justice Breyer less structured by party or ideology. Partisanship has very little effect on perception of Chief Justice Roberts, though there is an effect of ideology. Justices Alito, Gorsuch, and Thomas have similar party coefficients, but there is a somewhat stronger effect of ideology for Gorsuch than for Alito, with Thomas in between them. Evaluations of Justice Kavanaugh are the most strongly structured of any justice on both partisan and ideological bases.

While the strength of these relationships are less than we would expect for partisan candidates for office, the consistent structuring along party and ideological lines demonstrates that evaluations of justices are consistent with the party and ideological ties of voters.

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The Court and presidential opinions

Appointments to the Supreme Court emerged as an important element in the 2016 presidential campaign when Donald Trump released a list of names from which he pledged to select nominees to the Court. With two appointments to the Court, this issue has remained salient as a congressional issue as well.

Asked how much they approve of President Trump’s handling of Supreme Court appointments, 43 percent approve and 57 percent disapprove.

[Appointments to the US Supreme Court] How much do you approve or disapprove of the way Donald Trump is handling the following issues?

Response	Percent
Strongly approve	22
Somewhat approve	21
Somewhat disapprove	19
Strongly disapprove	38

For comparison, 40 percent approve of President Trump’s handling of his job overall, while 60 percent disapprove, a slightly worse overall approval rating than for his handling of Court nominations.

Overall, how much do you approve or disapprove of the way Donald Trump is handling his job as president?

Response	Percent
Strongly approve	20
Somewhat approve	20
Somewhat disapprove	14
Strongly disapprove	46

Asked about their confidence in a future Trump nominee, 32 percent say they have a great deal or quite a lot of confidence, 13 percent have some, while 56 percent say they have little or no confidence that the next nominee will be the right kind of person for the Court.

If there is another opening on the Supreme Court, how much confidence do you have that President Donald Trump will select the right kind of person to sit on the Supreme Court?

Response	Percent
A great deal of confidence	19

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Quite a lot of confidence	13
Some confidence	13
Very little confidence	19
None at all	37

Views of presidential performance overall or in judicial matters are, unsurprisingly, closely tied to partisanship, with nearly identical correlations of .74 and .73 respectively.

Approval of nominations to the Supreme Court by party identification

	Strongly approve	Somewhat approve	Somewhat disapprove	Strongly disapprove
Rep	59	30	7	4
Lean Rep	39	41	12	8
Ind	7	28	31	34
Lean Dem	1	5	31	63
Dem	2	7	22	69

A multivariate model of overall approval, including the effects of partisanship and ideology, finds that approval of Court nominations has a strong and statistically significant relationship with overall job approval, and that the favorability rating of Justice Kavanaugh also is statistically significant, though the rating of Trump’s other appointee, Justice Gorsuch, is not statistically significant.

Handling of nominations also has statistically significant effects on vote choice for president in 2020. A multivariate model that predicts vote between Trump and Joe Biden and one for the choice of Trump or Elizabeth Warren result in similar conclusions. The model, which includes partisanship, ideology, and overall job approval, finds that there is an additional statistically significant effect of approval of Court nominations, and of favorability to Justice Kavanaugh, with no statistically significant effect for favorability of Justice Gorsuch.

While other factors such as party, ideology and overall performance are powerful predictors of vote choice, the statistical model supports the idea that Court appointments are an additional factor in evaluations of presidential performance and in vote choice.