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This release is also available online.

Marquette Law School Poll Expands National U.S. Supreme Court Survey to Six Times a Year, Releases Results

New national Marquette Law School Poll finds public approval of Supreme Court to be high, partisanship to shape views of justices and decisions

Please note: Complete Poll results and methodology information can be found online at law.marquette.edu/poll

MILWAUKEE — A Marquette University Law School poll of adults nationwide finds 60% saying they approve of the way the U.S. Supreme Court is handling its job, while 39% disapprove and 1% do not offer an opinion. By comparison, in the same national poll, 58% approve of the way President Joe Biden is handling his job as president, while 42% disapprove. The U.S. Congress fares worst of the three branches, as 33% among the public approve and 66% disapprove of how Congress is performing its duties.

Over the past year, approval of the Court has declined six points, from 66% in September 2020. Disapproval rose a corresponding amount, from 33% to 39%. Asked which branch of the federal government they trust most, 58% of respondents say they trust the Court most of the three branches, with 28% saying they trust the presidency most and 13% saying they trust Congress the most. In the 2020 national Marquette Law School Poll, 59% said they trusted the Court most, with the presidency at 24% and Congress at 16%.

The Marquette Law School Poll previously conducted national surveys of public opinion and attitudes about the U.S. Supreme Court in 2019 and 2020. This new poll reflects an expansion of this initiative, which will see a similar national poll conducted every other month for the next year. This survey was conducted July 16-26, 2021, among 1,010 adults nationwide, with a margin of error of +/-3.9 percentage points. Interviews were conducted using the SSRS Opinion Panel, a national probability sample with interviews conducted online.

Approval of the Court varies little by party in this survey, whereas partisanship played a larger role a year ago. Tables 1 and 2 show approval of the way the Court is handling its job, by party identification for 2021 and 2020. Democrats and Republicans have similar approval ratings of the Court this year, but in 2020 Republicans were much more approving of the Court. This shift is striking because the 2020 survey was completed before Justice Ruth Bader Ginsburg died, so the decline in Republican approval comes

despite the addition of Justice Amy Coney Barrett, who was appointed by Republican President Donald Trump.

All numbers in tables are percentages unless context indicates otherwise.

Table 1: Approval of the way the Court is doing its job, by party identification, July 2021

Party ID	Approve	Disapprove	Refused
Republican	57	42	1
Independent	61	37	1
Democrat	59	40	1

Table 2: Approval of the way the Court is doing its job, by party identification, September 2020

Party ID	Approve	Disapprove	Refused
Republican	80	19	2
Independent	64	34	2
Democrat	57	43	0

Despite the intense arguments over the Court in partisan circles, perceptions of the Court’s makeup have changed only modestly since Barrett’s nomination gave Republican presidents six appointments to the Court versus three appointments by Democratic presidents. Fewer than a third of respondents say Republican presidents have “definitely” appointed a majority of the Court, while just under half say they “probably” have appointed a majority. Almost a quarter say Democratic presidents have probably or definitely appointed a majority of the Court. Perception has shifted slightly over the past three years, with more awareness in 2021 of a Republican-appointed majority, as shown in Table 3.

Table 3: What is your guess as to whether a majority of the current US Supreme Court Justices were appointed by Democratic or Republican presidents?

Survey	Definitely a majority appointed by Democratic presidents	Probably a majority appointed by Democratic presidents	Probably a majority appointed by Republican presidents	Definitely a majority appointed by Republican presidents
September 2019	4	23	53	19
September 2020	4	24	51	21
July 2021	4	20	45	30

Knowledge of the partisan majority—a shorthand term used in this release simply to refer to the party of the appointing president—varies substantially by party. Despite three appointments to the Court by Donald Trump and frequent public references to Republican emphasis on judicial nominations, only 16% of Republicans say Republican presidents have “definitely” appointed a majority of the justices. By comparison, 44% of Democrats know this fact. Table 4 shows awareness of the partisan majority by party identification.

Table 4: Perceived partisan majority, by party identification

Party ID	Definitely/Probably Dem majority	Probably Rep majority	Definitely Rep majority
Republican	30	53	16
Independent	26	45	28
Democrat	18	38	44

Republicans who think Democratic presidents have appointed a majority of the Court (30% of all Republicans) are much less approving of the Court than Republicans who know there is a Republican-appointed majority. For independents and Democrats, those who say Republican presidents have definitely appointed a majority of the Court are less approving than those who say there is “probably” a Republican-appointed majority or who think there might be a majority appointed by Democratic presidents. Table 5 shows this relationship.

Table 5: Approval of the Court, by party and knowledge of partisan majority

Party ID	Awareness of partisan majority	Approve	Disapprove	Refused
Republican	Definitely/Probably Dem majority	43	57	0
Republican	Probably Rep majority	63	36	1
Republican	Definitely Rep majority	64	36	0
Independent	Definitely/Probably Dem majority	60	36	4
Independent	Probably Rep majority	67	32	0
Independent	Definitely Rep majority	52	48	0
Democrat	Definitely/Probably Dem majority	71	29	0
Democrat	Probably Rep majority	63	35	3
Democrat	Definitely Rep majority	52	48	0

Institutional change

Expansion of the Court has become a frequent topic of debate following recent confirmation battles in Congress. In the new national Marquette Law School Poll, 48% favor increasing the number of justices on the Court, while 51% oppose such a structural change.

On the issue of expanding the number of justices, the poll shows substantial and symmetric partisan differences, as shown in Table 6, with Republicans heavily opposed to an expansion and Democrats heavily in favor. Independents are, on balance, somewhat opposed.

Table 6: Support for expanding the number of justices, by party identification

Party ID	Favor	Oppose
Republican	26	74
Independent	44	56
Democrat	73	26

A majority of the public thinks that justices should not consider partisan control of the presidency and Senate when deciding the timing of their retirements. However, when given information about some Democrats urging Justice Stephen Breyer to retire now with a Democratic president and Senate, more people support retiring with politics in mind, though it remains a minority.

When asked “Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?” 28% say justices should consider party control, while 72% say they should not consider this. This item was asked of a random half-sample of the survey.

The other random half of respondents was provided more information and context in the form of an alternative question worded this way: “Justice Stephen Breyer is 82 years old and the oldest member of the Court. He was nominated to the court in 1994 by President Clinton. Some Democrats are urging Breyer to retire now while there are a Democratic president and senate. Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?” With this wording, 39% say justices should consider party control while 60% say they should not.

The partisan information boosts support for political timing of retirements across partisan identification, especially among Democrats, as shown in Tables 7 and 8.

Table 7: “Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?”

Party ID	Consider party control	Not consider party control
Republican	16	84
Independent	26	74
Democrat	41	59

Table 8: “Justice Stephen Breyer is 82 years old and the oldest member of the Court. He was nominated to the court in 1994 by President Clinton. Some Democrats are urging Breyer to retire now while there are a Democratic president and senate. Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?”

Party ID	Consider party control	Not consider party control
Republican	23	77
Independent	37	61
Democrat	58	42

Cases and decisions

While some Supreme Court decisions break through to public awareness among almost all citizens, most cases struggle to reach even half of the public. Six cases handed down in June or early July illustrate this range of visibility. They also show that, among those who have heard of them, a plurality supports all but one of the decisions, with substantial plurality support for three of the six decisions. Table 9 shows these decisions in order from least visible to most visible. The exact question wordings describing these cases were paraphrases of the way the cases were described in leading newspaper coverage. The full wording of the questions is given at the end of this release and is also available in the [complete survey instrument](#) posted online.

Table 9: Awareness and view of decisions

Decision	Heard nothing	Heard but not enough	Heard enough	Favor	Oppose	Net favor
California donor disclosure (<i>Americans for Prosperity Foundation v. Bonta</i>)	40	21	38	20	18	2
NCAA antitrust (<i>NCAA v. Alston</i>)	33	25	41	34	7	27
Arizona voting rights (<i>Brnovich v. Democratic National Committee</i>)	27	26	46	23	23	0
Philadelphia Catholic Social Services (<i>Fulton v. City of Philadelphia, Pennsylvania</i>)	36	17	46	27	19	8
School speech (<i>Mahanoy Area School District v. B.L.</i>)	24	16	59	52	7	45
Affordable Care Act (<i>California v. Texas</i>)	15	24	60	42	18	24

Perceived ideology of the Supreme Court

The Supreme Court is perceived as a center-right institution. Thirteen percent say it is very conservative, 37% say it is somewhat conservative, and 42% call it moderate. A small set of respondents (6%) see the Court as somewhat liberal and 1% think it is very liberal.

Perceptions have shifted a bit to the right since September 2020, when 5% said the Court was very conservative, 30% called it conservative, and 54% labeled it moderate, while 9% said it was liberal and 2% called it very liberal. (The category labels changed from 2020 to 2021, replacing “conservative” with “somewhat conservative” and “liberal” with “somewhat liberal,” so it is possible that this change in wording affected the results independently of changes in public perceptions.)

Compared across political institutions and actors, the Court is on average seen as closer to the center than is the Republican party and closer to the right than is Joe Biden or the Democratic party. Table 10 shows the average position on a 1-5 scale, where 1 is very conservative and 5 is very liberal.

Table 10: Average ideological ratings where 1 is very conservative through 5 is very liberal

Rating for	Mean
Republican party	1.77
Supreme Court	2.44
Joe Biden	3.73
Democratic party	3.95

While the public sees the court as leaning to the right ideologically, a substantial majority (71%) say the justices' decisions are most often motivated by the law, while 29% say decisions are mainly based on politics. In the 2020 poll, 62% said the law was the main motivation of justices, and 37% said it was mainly politics.

A majority of each partisan group says the justices are mainly motivated by the law, though the majorities are somewhat smaller among Democrats than among Republicans or independents. Table 11 shows responses by party.

Table 11: Do justices decide mainly based on politics or the law, by party

Party ID	Mainly politics	Mainly the law
Republican	24	76
Independent	25	75
Democrat	40	60

The public's views of the justices

The justices are not well known among the public. Nearly a quarter of respondents (24%) say they do not know enough about any of the nine justices to give a favorable or unfavorable opinion about them. Another quarter, 27%, are able to rate one, two or three justices. Twenty-three percent are able to rate four to six justices, and a final 26% can rate seven to nine justices.

Individual justices vary considerably in their visibility to the public. Table 12 shows the justices in order from least well known to most well known.

Table 12: Recognition and favorability ratings of justices, July 2021

Justice	Never heard of	Heard but not enough	Able to rate	Favorable	Unfavorable
Stephen Breyer	43	33	24	18	6
Elena Kagan	41	30	29	21	8
Samuel Alito	39	30	31	19	12
Neil Gorsuch	35	31	34	21	13
John Roberts	30	26	43	29	14
Sonia Sotomayor	25	25	49	37	12
Amy Coney Barrett	21	25	53	27	26
Clarence Thomas	21	22	57	32	25
Brett Kavanaugh	17	24	58	26	32

The order of justices by visibility is little changed from a year ago, with Barrett as third-most visible; on the Court, she replaced Ginsburg, who was the most well-known prior to her death in 2020. Breyer, Alito, Kagan and Gorsuch were the least well-known both years. Chief Justice John Roberts has been in the middle of visibility, with just over 40% able to rate him in both 2020 and 2021. The corresponding ratings of justices in September 2020 are shown in Table 13.

Table 13: 2020 Recognition and favorability ratings of justices, September 2020

Justice	Never heard of	Heard but not enough	Able to rate	Favorable	Unfavorable
Stephen Breyer	47	34	18	12	6
Samuel Alito	41	33	25	17	8
Elena Kagan	46	27	27	18	9
Neil Gorsuch	37	29	33	19	14
John Roberts	31	27	41	28	13
Sonia Sotomayor	28	25	47	33	14
Clarence Thomas	22	23	55	30	25
Brett Kavanaugh	16	23	60	28	32
Ruth Bader Ginsburg	17	19	63	44	19

How knowledge and partisanship structure views of the Court

While the Supreme Court has been embroiled in political fights over appointments and high-stakes decisions on cases, and many party and interest group activists see the Court as crucial to their political and policy goals, the Court is, for the mass public, a somewhat distant object. Most citizens can offer generalized views of approval or ideology or trust, but specific and detailed knowledge is often lacking. While virtually all respondents are willing to give an approval rating or place the Court on a liberal-conservative ideology scale, only about half, 51%, say the choice of the next justice is “very important” to them personally, only 58% can say whether they have a favorable or unfavorable opinion of the *best-known* justice, while one in four (24%) state they don’t know enough to rate *any* of the nine justices, and 18% do not know enough to offer an opinion of any of six cases decided in the previous two months.

While it is common for voters to lack detailed knowledge of policy, procedure, or elected officials, the Court falls at the low end of visibility. It is not uncommon for a quarter to a third of voters to lack a favorable or unfavorable opinion of their U.S. senators, yet 42% were unable to give an opinion about the best-known justice, and 76% lacked an opinion of the least-known justice. Many voters are unable to give the name of their member of the House of Representatives. In light of this, it is not that the Court’s limited visibility is unique but rather that it represents the low end of a continuum from the highly visible president, through governors, senators, and members of Congress, to the Court.

An important implication of this is that the structure of opinion about the Court may differ substantially between those who have high interest in it and those who only casually attend to the Court, with rare exceptions such as confirmation battles or landmark decisions.

While opinion is often only loosely informed, citizens still form generalized opinions about the Court in much the same way they form opinion about other less-than-universally known political actors and policy. In particular, they rely on partisanship and party cues.

A first consequence of the information gradient is that those citizens most interested and most informed have the most divided views of the Court, while the less attentive tend to view the Court in a more positive light.

Those who say the next appointment to the Court is very important to them personally are about evenly divided in approval of the Court, while those less concerned are notably more approving, as shown in Table 14.

Table 14: Court approval, by how important is the choice of the next justice

Importance	Approve	Disapprove	Refused
Very important	53	46	1
Somewhat important	68	32	0
Not too important	64	34	3
Not at all important	62	38	0

A similar pattern is evident for knowledge of decisions and of the justices. Those in the best-informed categories are considerably more divided in their views of the Court than are those with more limited knowledge. Table 15 shows the differences by knowledge of recent decisions, and Table 16 shows differences by ability to give an opinion of the justices.

Table 15: Court approval, by knowledge of recent decisions

Awareness of decisions	Approve	Disapprove	Refused
Case knowledge: zero decisions	65	33	2
Case knowledge: 1-2 decisions	63	36	1
Case knowledge: 3-4	62	38	0
Case knowledge: 5-6	49	49	1

Table 16: Approval of the Court, by knowledge of justices

Awareness of justices	Approve	Disapprove	Refused
Lowest quarter	62	36	2
2nd quarter	60	39	0
3rd quarter	64	35	1
Highest quarter	52	47	0

The partisan structure of opinion about the Court

Despite the limitations of knowledge about the Court the public manages, in a rough way, to match its partisan positions to its views of the justices and the Court's decisions.

With the sole exception of Chief Justice Roberts, net favorability aligns with the partisanship of the respondent and the party of the president who appointed the Justice. This pattern holds for the less well-known justices (Breyer, Alito, Kagan, and Gorsuch) and for the more widely known justices (Sotomayor, Barrett, Thomas, and Kavanaugh). Roberts alone is more positively evaluated by Democrats than by Republicans, despite his appointment by Republican President George W. Bush. Views of the justices by party are shown in Table 17.

Table 17: Recognition and favorability ratings of justices, by party identification

Justice	Party ID	Able to rate	Favorable	Unfavorable	Net favorability
Samuel Alito	Republican	32	25	7	18
Samuel Alito	Independent	29	20	9	11
Samuel Alito	Democrat	33	11	22	-11
Stephen Breyer	Republican	19	10	9	1
Stephen Breyer	Independent	20	16	4	12
Stephen Breyer	Democrat	32	27	5	22
Amy Coney Barrett	Republican	59	56	3	53
Amy Coney Barrett	Independent	47	23	24	-1
Amy Coney Barrett	Democrat	58	9	49	-40
Neil Gorsuch	Republican	33	30	3	27
Neil Gorsuch	Independent	31	21	10	11
Neil Gorsuch	Democrat	37	12	25	-13
Elena Kagan	Republican	27	12	15	-3
Elena Kagan	Independent	25	16	9	7
Elena Kagan	Democrat	36	35	1	34
Brett Kavanaugh	Republican	58	56	2	54
Brett Kavanaugh	Independent	54	23	31	-8
Brett Kavanaugh	Democrat	63	5	58	-53
John Roberts	Republican	36	20	16	4
John Roberts	Independent	44	30	14	16
John Roberts	Democrat	47	35	12	23
Clarence Thomas	Republican	57	50	7	43
Clarence Thomas	Independent	52	30	22	8
Clarence Thomas	Democrat	64	19	45	-26
Sonia Sotomayor	Republican	42	16	26	-10
Sonia Sotomayor	Independent	46	34	12	22
Sonia Sotomayor	Democrat	62	61	1	60

Political partisanship also correlates with reactions to cases with a notable partisan tilt in the lineup of the justices (in the respective majority and dissent) or with a partisan bent in their dominant public characterizations, including the Arizona voting rights, California donor disclosure, Philadelphia Catholic Social Services, and Affordable Care Act cases. Views of other decisions, with a less clear partisan connection, including the school speech and NCAA antitrust decisions, vary less by partisanship, although Democrats favor the decisions somewhat more than do Republicans. These relationships are shown in Table 18.

Table 18: Awareness of decisions and view of decisions by party identification

Decision	Party ID	Not heard/not enough	Favor	Oppose	Net favor
Arizona voting rights (<i>Brnovich v. Democratic National Committee</i>)	Republican	54	34	12	22
Arizona voting rights (<i>Brnovich v. Democratic National Committee</i>)	Independent	55	26	18	8
Arizona voting rights (<i>Brnovich v. Democratic National Committee</i>)	Democrat	51	11	38	-27
California donor disclosure (<i>Americans for Prosperity Foundation v. Bonta</i>)	Republican	61	27	11	16
California donor disclosure (<i>Americans for Prosperity Foundation v. Bonta</i>)	Independent	61	22	17	5
California donor disclosure (<i>Americans for Prosperity Foundation v. Bonta</i>)	Democrat	64	11	25	-14
School speech (<i>Mahanoy Area School District v. B.L.</i>)	Republican	45	45	9	36
School speech (<i>Mahanoy Area School District v. B.L.</i>)	Independent	38	55	5	50
School speech (<i>Mahanoy Area School District v. B.L.</i>)	Democrat	38	55	8	47
Philadelphia Catholic Social Services (<i>Fulton v. City of Philadelphia, Pennsylvania</i>)	Republican	47	42	10	32
Philadelphia Catholic Social Services (<i>Fulton v. City of Philadelphia, Pennsylvania</i>)	Independent	56	25	18	7
Philadelphia Catholic Social Services (<i>Fulton v. City of Philadelphia, Pennsylvania</i>)	Democrat	54	17	29	-12
Affordable Care Act (<i>California v. Texas</i>)	Republican	48	15	37	-22
Affordable Care Act (<i>California v. Texas</i>)	Independent	43	41	15	26
Affordable Care Act (<i>California v. Texas</i>)	Democrat	26	66	7	59
NCAA antitrust (<i>NCAA v. Alston</i>)	Republican	66	24	9	15
NCAA antitrust (<i>NCAA v. Alston</i>)	Independent	58	35	5	30
NCAA antitrust (<i>NCAA v. Alston</i>)	Democrat	52	41	6	35

About the Marquette Law School Poll

The survey was conducted July 16-26, 2021, interviewing 1,010 adults nationwide, with a margin of error of +/-3.9 percentage points. Interviews were conducted online using the SSRS Opinion Panel, a national probability sample. The half-sample items concerning justices' retirement decisions have a margin of error of +/-5.6 percentage points. The detailed methodology statement, survey instrument, topline results, and crosstabs for this release are available at <https://law.marquette.edu/poll/category/results-and-data/>

Question wording for Court decisions (see also <https://law.marquette.edu/poll/category/results-and-data/>)

“Do you favor or oppose the following recent Supreme Court decision, or haven't you heard enough about it to have an opinion? The Supreme Court...”

“Ruled that an Arizona law did not violate the federal Voting Rights Act in rejecting ballots cast at the wrong precinct and limiting who can return absentee ballots for a voter.” [Note to reader here: This is a reference to *Brnovich v. Democratic National Committee*.]

“Ruled that California cannot require charities to report the identities of their top donors to the state attorney general, saying this violated the Constitutional right of freedom of association.” [Note: A reference to *Americans for Prosperity Foundation v. Bonta*.]

“Ruled that schools generally cannot punish students for things they say outside of school hours and off school grounds with the possible exception of bullying or threats.” [Note: A reference to *Mahanoy Area School District v. B.L.*]

“Ruled that Philadelphia was wrong to end a Catholic group's contract to provide foster-care services because the organization refused to work with same-sex couples.” [Note: A reference to *Fulton v. City of Philadelphia, Pennsylvania*.]

“Rejected a case attempting to strike down the Affordable Care Act, or Obamacare, leaving the health care law intact.” [Note: A reference to *California v. Texas*.]

“Ruled that the National Collegiate Athletic Association (NCAA) violated antitrust laws when it limited the various education-related benefits that colleges and universities can offer student athletes.” [Note: A reference to *NCAA v. Alston*.]

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