

THE POLLS—TRENDS

PUBLIC OPINION ON THE US SUPREME COURT, 1973–2015

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Abstract Historically, the US Supreme Court has been the federal branch most highly regarded by the public on almost every measure. However, recent polling suggests that there may have been an unprecedented drop in support for the Court over the past decade. I examine this downturn in the context of historical trends in public opinion of the Court, finding that while there does appear to be an appreciable decline, there does not appear to be a single clear causal factor or series of events responsible, and that the decline has not persisted long enough to represent a real sea change to date. In contrast to formal and informal academic assessments, controversial appointments and ideologically charged decisions do not appear to influence substantially the public's evaluations of the Court. Prevailing trends in opinion on the other branches of government, however, do appear to have an influence. Additionally, strong, consistent support for a political confirmation process emerged, suggesting that the public sees the Court as a political body with the justices as self-interested actors, rather than a strictly impartial legal entity.

As an unelected body that has the potential to make huge impacts on policy, the Supreme Court occupies a unique place in the American political landscape. Despite (or perhaps because of) its insulation from the public, the Court has historically been one of the more positively evaluated government institutions, after the military. Consequently, it has built up a reputation as having a proverbial “reservoir of goodwill” that prevents it from falling out of public favor. This has been challenged recently by sliding approval ratings and studies that imply that perception of the Court's legitimacy is linked to ideological agreement with

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its decisions (Bartels and Johnson 2013). Have controversial decisions, contentious confirmation processes, or the increase of partisan agenda items on its docket undermined support for the Court, or is it simply a victim of a wave of generalized anti-government sentiment? This article evaluates these various possibilities by examining the trends in public opinion concerning different characteristics of the Court: its general approval, ideology, confidence, Chief Justice, and politicization.

The Supreme Court has appeared on several long-running surveys since the 1970s, though with a limited number of consistently repeated questions regarding it. This allows for long-term analysis of issues such as confidence and approval but provides less information about other aspects of the Court, such as the appointment process and the justices' ideology. Though these aspects are certainly of interest, the more general nature of the long-running questions may be due to the varying levels of salience those more specific issues have across time. The public's awareness of specific justices or decisions has a narrow window. Questions about them are often only asked just prior to or after a confirmation process or opinion announcement, leading to few if any trends being available. As a result, other trend analyses that utilize information about the Court tend to be subject specific, rather than institution specific, and focus on ongoing social issues, such as Shaw (2007) on abortion and Frankenberg and Jacobsen (2011) on school integration.

General Approval

The Supreme Court mostly enjoyed at least slight majority approval of its job performance from 2000 to about 2011, when its approval percentage dropped to less than 50 percent, where it has remained since in most polls. From 2000 to 2003, Gallup consistently found strong majorities (around 60 percent) approving of how the Court handled itself (table 1).¹ However, in the past four years, approval has ranged between 43 and 49 percent. In the intervening years, ratings fluctuated between a high of 61 percent in 2009 and a low of 42 percent in 2005, but did not exhibit a trend long-lasting enough to counteract the general trend toward lower approval. An identical CNN/ORC question found slightly higher approval ratings, with a small increase in approval in the summer of 2012, but also a decrease from 2012 to 2013 (table 2). Though the increase could be explained by the decision in *National Federation of Independent Business v. Sebelius* (the first Affordable Care Act case) that year, in comparison, Gallup polls reported no difference between approval levels in fall 2011 and summer 2012 (table 1). Levels of approval for the CNN/ORC polls returned to above 50 percent in 2015 without any particular decision-related attention drawn to the Court, further suggesting that the decrease is not indicative of a trend.

1. Response rate and other methodological information may be found in the appendix.

Table 1. General Approval of the Supreme Court. Gallup: “Do you approve or disapprove of the way the Supreme Court is handling its job?”

	8–9/00 (%)	1/01 (%)	6/01 (%)	9/01 (%)	9/02 (%)
Approve	62	59	62	58	60
Disapprove	29	34	25	28	29
No opinion	9	7	13	14	11
<i>N</i>	1,012	1,004	1,004	1,004	1,004
	7/03 (%)	9/03 (%)	9/04 (%)	6/05 (%)	9/05 (%)
Approve	59	52	51	42	56
Disapprove	33	38	39	48	36
No opinion	8	10	10	10	8
<i>N</i>	1,006	1,025	1,022	1,009	921
	9/06 (%)	5/07 (%)	9/07 (%)	6/08 (%)	9/08 (%)
Approve	60	51	51	48	50
Disapprove	32	36	39	38	39
No opinion	8	13	10	14	11
<i>N</i>	1,002	1,003	1,010	822	1,007
	6/09 (%)	8–9/09 (%)	9/10 (%)	9/11 (%)	7/12 (%)
Approve	59	61	51	46	46
Disapprove	30	28	39	40	45
No opinion	11	11	10	14	9
<i>N</i>	1,011	1,026	1,019	1,017	1,014
	9/12 (%)	7/13 (%)	9/13 (%)	7/14 (%)	9/14 (%)
Approve	49	43	46	47	44
Disapprove	40	46	45	46	48
No opinion	11	11	9	7	8
<i>N</i>	1,017	2,027	1,510	1,013	1,017
	7/15 (%)				
Approve	49				
Disapprove	46				
No opinion	5				
<i>N</i>	1,009				

The same question asked by CBS News/*New York Times* resulted in fairly consistent approval levels over 2012–2013 as well as in 2015, though with slightly lower than those reported by Gallup and CNN (table 3). This might be due to the higher levels of uncertainty (“unsure” or “don’t know/no answer” responses) deflating results. When the same question was posed to registered voters, approval percentages were generally in the mid- to high 40s, with an isolated increase in 2009 (table 4). This increase is consistent with a similar isolated increase in 2009 from the Gallup polls, even though Gallup’s population of interest was more general.

The trend when asking about favorability is similar to the trend in approval ratings. In 2001, as high as 72 percent of Americans had a “very/mostly favorable” opinion of the Court, but by the summer of 2012 the percentage had fallen to 51 and remained in that range (table 5). Ratings of favorability tend to be higher than ratings of approval, perhaps because the question’s very general wording seemed to indicate a focus on the institution rather than job performance. Though the approval measure could be read more generally, results from an open-ended follow-up question to Gallup’s approval question in May 2007 suggest that many respondents understood it as a performance question. However, among those who approved of the Court’s job performance, the proportion citing approval of its decisions as the reason for their approval was similar to the proportion with no reason in particular. This suggests that while

Table 2. General Approval of the Supreme Court. CNN/ORC: “Do you approve or disapprove of the way the Supreme Court is handling its job?”

	4/12 (%)	6–7/12 (%)	6/13 (%)	5/15 (%)
Approve	50	53	48	52
Disapprove	41	43	48	41
No opinion	9	4	4	7
<i>N</i>	1,015	1,517	1,014	1,025

Table 3. General Approval of the Supreme Court. CBS News/*New York Times*: “Do you approve or disapprove of the way the Supreme Court is handling its job?”

	5–6/12 (%)	7/12 (%)	3/13 ^a (%)	5–6/13 (%)	6/15 (%)
Approve	44	41	44	44	41
Disapprove	36	41	38	40	40
Don’t know/no answer	20	18	18	16	19
<i>N</i>	976	1,089	1,181	1,022	1,007

^a CBS News Poll

approval is often linked to output, it may also be significantly influenced by an instinctual respect for the Court as an institution apart from its rulings.

Confidence

Confidence in the Supreme Court has historically been both comparatively high and relatively stable throughout time. Lipset and Schneider (1983, 67–76) found that the Court was consistently the highest-ranked government body across a number of polls through the 1960s and 1970s, easily weathering the effects of Watergate and Vietnam that affected confidence in other organizations. The Court appears to have lost some of that immunity in recent years. However, the severity of this trend depends on how confidence is being measured.

Confidence in “the people running” the Supreme Court remained fairly stable for many years but has recently trended downward (table 6). Since the 1970s, about 30 percent of the public reports having a “great deal” of confidence, 50 percent having “only some,” and between 10 and 20 percent “very little” under this formulation. Based on the GSS, the percentage of those with a “great deal” of confidence declined slowly from 33 to 29 percent between 2006 and 2012, with a sharp drop to 23 percent in 2014. This is the longest measured period of sustained decline, wrapping up with the lowest recorded level of confidence since 1973. The previous lowest point was 25 percent in 1980, but ratings rose back to their former levels by the mid-1980s. The appearance of a low point after the “national malaise” of the Carter administration suggests that ratings were influenced by a general lack of confidence in the government, rather than specific concerns

Table 4. General Approval of the Supreme Court. Quinnipiac University: “Do you approve or disapprove of the way the United States Supreme Court is handling its job?” (national registered voters)

	12/04 (%)	5/05 (%)	7/05 (%)	11–12/05 (%)	8/07 (%)
Approve	50	44	50	50	45
Disapprove	33	39	39	32	37
Don’t know/no answer	17	17	11	17	17
<i>N</i> (RV)	1,529	1,104	920	1,230	1,545
	5–6/09 (%)	4/10 (%)	4/12 (%)	7/12 (%)	6–7/13 (%)
Approve	62	49	52	47	45
Disapprove	22	33	31	41	44
Don’t know/no answer	16	18	18	12	11
<i>N</i> (RV)	3,097	1,930	2,577	2,722	2,014

Table 5. General Approval of the Supreme Court. Pew: “Is your overall opinion of ... the Supreme Court very favorable, mostly favorable, mostly unfavorable, or very unfavorable?”

	1/01 (%)	3/01 ^{a,b,c} (%)	7/01 ^b (%)	06/05 ^b (%)	7/05 ^{a,b} (%)
Very favorable	18	15	15	8	12
Mostly favorable	50	57	55	49	49
Mostly unfavorable	13	15	14	22	18
Very unfavorable	8	7	6	8	10
Never heard of (vol.)	1	*	*	*	*
Can't rate (vol.)/refused	10	8	10	13	11
<i>N</i>	1,258	2,041	1,003	1,464	2,000
	10/05 ^a (%)	2/06 ^a (%)	7/06 ^a (%)	12/06–1/07 ^a (%)	7/07 (%)
Very favorable	12	16	7	18	12
Mostly favorable	50	44	56	54	45
Mostly unfavorable	17	18	19	14	20
Very unfavorable	10	10	8	3	9
Never heard of (vol.)	*	*	1	2	0
Can't rate (vol.)/refused	11	12	9	9	14
<i>N</i>	2,006	1,502	2,003	2,007	1,503
	4/08 (%)	3–4/09 ^a (%)	2/10 (%)	7/10 (%)	4/12 ^a (%)
Very favorable	15	8	8	9	11
Mostly favorable	50	56	50	49	41
Mostly unfavorable	18	15	19	17	20
Very unfavorable	7	6	8	8	10
Never heard of (vol.)	*	*	*	1	*
Can't rate (vol.)/refused	10	15	15	16	18
<i>N</i>	1,502	1,506	1,383	1,007	3,008
	6–7/12 ^b (%)	12/12 ^{a,b} (%)	3/13 ^b (%)	7/13 (%)	4/14 ^d (%)
Very favorable	10	8	7	7	11
Mostly favorable	41	45	45	41	44
Mostly unfavorable	23	24	21	24	23
Very unfavorable	14	12	10	14	12
Never heard of (vol.)	1	1	2	1	*
Can't rate (vol.)/refused	11	10	15	13	9
<i>N</i>	2,973	1,503	1,501	1,480	1,501

Continued

Table 5. Continued

	7/14 (%)	3/15 ^b (%)	7/15 ^b (%)
Very favorable	8	8	9
Mostly favorable	44	42	39
Mostly unfavorable	24	26	26
Very unfavorable	14	12	17
Never heard of (vol.)	1	1	*
Can't rate (vol./refused)	9	11	9
<i>N</i>	1,805	1,500	2,002

^aAsked of a half sample, *N* is for full sample.

^b"Would you say your opinion of ... the Supreme Court is very favorable, mostly favorable, mostly unfavorable, or very unfavorable?"

^cOversampled African Americans, then reweighted to nationally represented.

^d"Next, would you say your overall opinion of ... the Supreme Court is very favorable, mostly favorable, mostly unfavorable, or very unfavorable?"

*Less than 0.5%

with the Court. All three branches hit then-historic lows for confidence during the period (Lipset and Schneider 1983, 52–53). Similarly, the current trend for the Court is consistent with declines in confidence (of different degrees) for the president and Congress over the past decade ("Confidence in Institutions"). However, it remains to be seen whether the declines will persist or if opinion will drift back upward as it did post-1980. The results from the Harris surveys follow the same general pattern of declining confidence in the early 2000s, from 34 percent with a great deal of confidence in 2000 to 25 percent in 2008, but with more variability over the whole period (table 7). After declining, the percentage with a great deal of confidence increased six percentage points between 2008 and 2010.

Gallup and CBS more directly measured confidence in the *institution* (tables 8 and 9). As identified in Lipset and Schneider (1983, 57), the standard used by Gallup (and others) of using four rather than three answer choices generally results in higher reported confidence levels, which makes it more difficult to compare directly. Though the difference in wording—specifying the institution rather than the people—may seem also to be a contributing factor to the discrepancy, Lipset and Schneider (1983, 93) find that it has very little, if any, impact on the results. When combining those with a "great deal" or "quite a lot" of confidence, institutional confidence appears to be consistently higher than confidence in the institution's leaders, but has also declined much more significantly from as high as 54 percent in 1986 to 30 percent in 2014. The decrease has been reflected in the increase of the percentage with "very little" confidence, rather than just an increase in those with "some" confidence.

Despite these trends, a crisis in Court legitimacy does not appear imminent. The trends of confidence in the Court largely mirror trends in congressional

Table 6. Confidence in the Supreme Court. NORC (GSS): “(I am going to name some institutions in this country. As far as the people running these institutions are concerned, would you say you have a great deal of confidence, only some confidence, or hardly any confidence at all in them?) ... US Supreme Court.”

	2-4/73 (%)	2-4/74 (%)	2-4/75 (%)	2-4/76 (%)	2-4/77 (%)
A great deal	31	33	31	35	36
Only some	50	48	46	44	49
Hardly any	15	14	19	15	11
Don't know	3	5	4	6	4
<i>N</i>	1,504	1,484	1,490	1,499	1,530
	2-4/78 (%)	2-4/80 (%)	2-4/82 (%)	2-4/83 (%)	2-4/84 (%)
A great deal	28	25	31	27	33
Only some	53	50	53	55	51
Hardly any	15	19	12	14	12
Don't know	5	6	4	4	4
<i>N</i>	1,532	1,468	1,506	1,599	1,473
	2-4/86 (%)	2-4/87 (%)	2-4/88 (%)	2-4/89 (%)	2-4/90 (%)
A great deal	30	36	35	34	35
Only some	52	49	50	50	48
Hardly any	14	10	11	11	13
Don't know	4	4	4	5	4
<i>N</i>	1,470	1,466	1,481	1,537	1,372
	2-4/91 (%)	2-4/93 (%)	1-5/94 (%)	2-5/96 (%)	2-6/98 (%)
A great deal	37	31	30	28	31
Only some	46	52	50	50	50
Hardly any	12	13	16	17	14
Don't know	4	4	3	5	5
<i>N</i>	1,517	1,606	2,992	2,904	2,832

Continued

Table 6. Continued

	2–6/00 (%)	2–6/02 (%)	8/04–1/05 (%)	3–8/06 (%)	4–9/08 (%)
A great deal	32	35	32	33	31
Only some	49	50	52	49	53
Hardly any	13	11	15	15	14
Don't know	6	4	1	4	3
<i>N</i>	2,817	2,765	2,812	4,510	2,023
	3–8/10 (%)	3–9/12 (%)	3–10/14 (%)		
A great deal	30	29	23		
Only some	51	53	54		
Hardly any	17	16	20		
Don't know	2	3	3		
<i>N</i>	2,043	1,975	1,684		

NOTE.—Asked to 2/3 of sample for dates after 1983.

Table 7. Confidence in the Supreme Court. Harris: “As far as people in charge of running ... the US (United States) Supreme Court ... are concerned, would you say you have a great deal of confidence, only some confidence, or hardly any confidence at all in them?”

	1/00 (%)	1/01 (%)	1/02 (%)	12/02 (%)	2/04 (%)
Great deal	34	35	41	34	29
Only some	51	45	45	48	49
Hardly any	13	16	11	13	18
Not sure/refused/decline to answer	3	3	3	4	4
<i>N</i>	1,010	1,011	1,011	1,023	1,020
	2/05 (%)	2/06 (%)	2/07 (%)	2/08 (%)	2/09 (%)
Great deal	29	33	27	25	30
Only some	57	50	54	55	50
Hardly any	13	16	17	16	19
Not sure/refused/decline to answer	1	1	2	3	2
<i>N</i>	1,012	1,016	1,013	1,010	1,010

Continued

Table 7. Continued

	2/10 (%)
Great deal	31
Only some	46
Hardly any	21
Not sure/refused/decline to answer	2
<i>N</i>	1,010

Table 8. Confidence in the Supreme Court. Gallup: “(Now I am going to read you a list of institutions in American society. Please tell me how much confidence you, yourself, have in each one—a great deal, quite a lot, some, or very little?) The US (United States) Supreme Court.”

	5/73 (%)	5–6/75 (%)	1/77 (%)	4/79 (%)	8/83 (%)
Great deal	20	22	17	18	14
Quite a lot	25	27	28	27	28
Some	28	28	29	31	34
Very little	12	16	16	19	16
None (vol.)	5	1	2	1	1
Don't know/refused/no opinion	11	6	8	4	7
<i>N</i>	1,531	1,626	1,500	1,509	1,497
	5/85 (%)	7/86 (%)	10/86 (%)	7/87 (%)	8/90 (%)
Great deal	18	19	19	13	19
Quite a lot	38	35	35	39	28
Some	30	32	33	36	31
Very little	9	10	9	8	16
None (vol.)	1	1	1	*	2
Don't know/refused/no opinion	5	3	3	4	4
<i>N</i>	1,528	1,539	1,559	1,607	1,241
	2–3/91 (%)	3/91 ^a (%)	10/91 (%)	3/93 (%)	3/94 ^b (%)
Great deal	21	25	16	18	18
Quite a lot	27	26	23	25	24
Some	36	32	39	37	38
Very little	10	10	15	15	16
None (vol.)	1	1	2	2	1
Don't know/refused/no opinion	5	6	5	3	3
<i>N</i>	1,012	769	1,000	1,003	1,036

Continued

Table 8. Continued

	4/95 ^b (%)	5/96 ^b (%)	7/97 ^b (%)	6/98 ^b (%)	6/99 ^b (%)
Great deal	20	17	25	24	20
Quite a lot	24	28	25	26	29
Some	39	39	32	34	35
Very little	14	14	14	12	13
None (vol.)	1	1	2	1	1
Don't know/refused/no opinion	3	1	2	3	2
<i>N</i>	1,008	1,019	1,004	1,003	1,016
	6/00 (%)	12/00 ^b (%)	6/01 ^b (%)	6/02 ^b (%)	6/03 ^b (%)
Great deal	18	23	22	22	20
Quite a lot	29	26	28	28	27
Some	35	31	31	35	38
Very little	14	17	13	13	12
None (vol.)	1	2	3	*	1
Don't know/refused/no opinion	3	1	3	2	2
<i>N</i>	1,021	1,011	1,011	1,020	1,029
	5/04 (%)	5/05 (%)	6/06 (%)	6/07 (%)	6/08 (%)
Great deal	16	16	14	14	13
Quite a lot	30	25	26	20	19
Some	37	38	41	41	44
Very little	14	18	15	21	17
None (vol.)	2	1	1	2	1
Don't know/refused/no opinion	1	2	3	2	5
<i>N</i>	1,002	1,004	1,002	1,007	822
	6/09 (%)	7/10 (%)	6/11 (%)	6/12 (%)	6/13 (%)
Great deal	15	15	17	15	13
Quite a lot	24	21	20	22	21
Some	41	43	41	38	42
Very little	17	16	18	20	21
None (vol.)	1	2	2	2	2
Don't know/refused/no opinion	3	3	2	3	2
<i>N</i>	1,011	1,020	1,020	1,004	1,529

Continued

Table 8. Continued

	6/14 (%)	6/15 (%)
Great deal	12	14
Quite a lot	18	18
Some	41	42
Very little	24	23
None (vol.)	2	2
Don't know/refused/no opinion	2	2
<i>N</i>	1,027	1,527

^aGallup/*Newsweek*.

^bGallup/CNN/*USA Today*.

*Less than 0.5%

Table 9. Confidence in the Supreme Court. CBS News: "How much confidence do you yourself have in the United States Supreme Court—a great deal, quite a lot, some, or very little?"

	6/81 ^a (%)	11/00 (%)	12/00 (%)	5/01 (%)	11/04 (%)
A great deal	21	29	24	16	20
Quite a lot	26	28	22	22	21
Some	35	29	33	41	39
Very little	14	10	18	16	17
None (vol.)	—	—	—	1	1
Don't know/no answer/no opinion	4	2	3	3	2
<i>N</i>	1,433	1,012	1,048	1,063	885

	7/05 (%)	1/06 (%)	10/14 ^a (%)
A great deal	14	22	13
Quite a lot	22	27	17
Some	40	37	39
Very little	20	13	27
None (vol.)	—	1	—
Don't know/no answer/no opinion	4	—	4
<i>N</i>	632	1,151	1,008

^a“(Now I am going to read you a list of institutions in American society. Please tell me how much confidence you, yourself, have in each one—a great deal, quite a lot, some, or very little?) ... The US Supreme Court.”

confidence, suggesting that a decline in confidence in government or institutions overall might be responsible, rather than any specific aspects of the Court (Gallup Organization n.d.). Confidence has also been criticized as a non-comprehensive measure of legitimacy. Gibson, Caldiera, and Spence (2003) suggest that it does a poor job of measuring “diffuse support,” finding that the public remains strongly loyal to the Court as an institution, even as specific support—“satisfaction in general with the outputs of the institution”—varies.

Ideology

Measures of the Court’s ideology under a given set of justices are typically calculated either through aggregating the justices’ votes on cases with a variety of ideological slants (Martin and Quinn 2002) or trying independently to divine their personal ideologies (Segal and Cover 1989). The public’s impression of the prevailing ideology of the Court is difficult to pin down because of the various and inconsistent ways it is measured, and the resulting differences in results.

Gallup finds that the perceived ideology is mostly independent of both the justices and their decisions (table 10). Instead, recent trends appear to be tied to the public’s perception of ideological trends in government overall. During the Obama administration, approximately 30 percent thought the “current Supreme Court” was too liberal, and between 19 and 24 percent thought it was too conservative. Neither the appointment of a new justice (Elena Kagan) nor the decision in the 2012 ACA case appeared to have a significant impact on this rating. (Any effect from the appointment of Sonia Sotomayor would be combined with the effect of the 2008 election, but given that 2009 appears consistent with the other Obama years, it does not appear to be a factor on its own.) During the Bush administration’s second term, the situation is flipped, with between 30 and 25 percent considering the Court too conservative, and 21 to 25 percent considering it too liberal. Between 39 and 50 percent considered the Court “about right” throughout the period. This trend of “backlash” in opinion on the Court against ideological changes in the executive branch suggests the Court is perceived as being tied to the greater body of the federal government in the public mind. First, the public possibly conflates the Court with the administration it operates alongside, even when the administration’s actions do not directly affect the Court’s membership or output. For example, 21 percent of the public considered the Supreme Court “too liberal” between September 2006 and September 2008, but this increased to 28 percent in the summer of 2009 and remained higher through the Obama administration (table 10). Second, the trends are quite comparable to the thermostatic nature of public opinion on other government-related issues, such as spending (Soroka and Wlezien 2010, 41–42). Despite this, when asked about the ideological tenor of its *decisions*, rather than the Court overall, this presidential trend does not appear (table 11).

Table 10. Perceptions of Supreme Court Ideology. Perception of the Court's ideology. Gallup: "In general, do you think the current Supreme Court is too liberal, too conservative, or just about right?"

	6/93 (%)	7/95 ^a (%)	9/01 (%)	9/03 (%)	9/04 (%)
Too liberal	22	31	22	31	28
Too conservative	24	20	25	25	27
About right	45	41	46	39	40
Unsure	9	8	7	5	5
<i>N</i>	1,003	801	1,004	1,025	1,022
	9/05 (%)	9/06 (%)	9/07 (%)	9/08 (%)	8–9/09 (%)
Too liberal	25	21	21	21	28
Too conservative	25	31	32	30	19
About right	45	43	43	43	50
Unsure	5	6	5	6	3
<i>N</i>	921	1,002	1,010	1,007	1,026
	7–8/10 (%)	9/11 (%)	9/12 (%)	9/13 (%)	9/14 (%)
Too liberal	32	31	27	30	30
Too conservative	19	20	23	23	24
About right	43	42	44	41	43
Unsure	6	7	7	6	4
<i>N</i>	1,208	1,017	1,017	1,510	1,017

^aGallup/CNN/USA Today Poll.

An event-based effect does appear, but only under specific circumstances: limiting the question to two answer choices ("too liberal/conservative," no middle option given), and asking about "decisions." Under these conditions, opinion does appear to be influenced by events involving the Court that signaled a liberal turn (table 12). In 2012, 33 percent of voters thought the Court was too liberal, though an almost equal share also believed it was too conservative (35 percent). This shifted in 2013, after the polarizing Affordable Care Act decision in June 2012, with 40 percent now believing the Court was too liberal. Though this is only one instance, it suggests that people are paying attention, and that when forced to make a decision, they are using that salient information. That said, a greater percentage also believed it was too conservative in 2013, though this effect does not appear for registered voters when a middle option is given, suggesting limited generalizability (table 13).

Table 11. Perceptions of Supreme Court Ideology. ABC/Washington Post: “Do you think the Supreme Court tends to be too conservative or too liberal in its decisions or is it generally balanced in its decisions?”

	6/86 ^a (%)	9/87 ^a (%)	7/91 ^a (%)	9/91 (%)	7/95 (%)
Too liberal	18	24	21	16	22
Too conservative	19	19	33	31	22
Balanced	54	52	39	48	54
Don’t know/no opinion	8	5	6	5	3
<i>N</i>	1,505	2,116	553	1,233 ^b	1,548
	7/05 (%)	7/07 (%)	4/10 (%)		
Too liberal	22	18	26		
Too conservative	19	31	21		
Balanced	55	47	46		
Don’t know/no opinion	4	4	7		
<i>N</i>	500	1,125 ^b	1,001		

^a“Do you think the Supreme Court currently tends to be too conservative or too liberal in its decisions or is it generally balanced in its decisions?”

^bOversample of African Americans (weighted to nationally representative).

Table 12. Perceptions of Supreme Court Ideology. NBC News/Wall Street Journal: “In general, do you think the US Supreme Court is too liberal or too conservative in its decisions?”

	7/91 (%)	5/92 (%)	4/12 (%)	7/13 (%)
Too liberal	33	28	33	40
Too conservative	44	54	35	38
About right (vol.)	9	4	11	9
Depends (vol.)	4	5	5	3
Not sure	10	9	16	10
<i>N</i>	1,004	1,502	1,000 ^a	1,000

^aAsked of half sample, *N* is for full sample.

There is a potential question-wording effect from using “too liberal/conservative” rather than a straight evaluation of the Court’s position. The public may find the Court “liberal” or “conservative” but within acceptable boundaries, and be put off by the question. Pew surveys found that under the

Table 13. Perceptions of Supreme Court Ideology. Fox News: “Do you think the United States Supreme Court is generally too liberal, too conservative, or about right in its decisions?” (national registered voters)

	6–7/03 (%)	1/06 (%)	4/10 (%)	4/12 (%)
Too liberal	30	28	27	26
Too conservative	20	17	16	21
About right	37	42	46	45
Don’t know	13	13	10	8
<i>N</i>	900	900	900	910

Table 14. Perceptions of Supreme Court Ideology. Pew: “In your view, do you think the current Supreme Court is conservative, middle of the road, or liberal?”

	7/07 (%)	4/10 (%)	7/10 (%)	6–7/12 (%)	3/13 (%)
Conservative	36	24	23	24	22
Middle of the road	35	36	39	41	40
Liberal	14	24	23	23	24
Don’t know/Refused	15	16	14	12	14
<i>N</i>	1,503	1,546	1,007	2,973	1,501

	7/13 (%)	4/14 (%)	7/14 (%)	3/15 (%)
Conservative	23	25	27	28
Middle of the road	42	35	38	38
Liberal	26	31	26	26
Don’t know/Refused	9	8	8	8
<i>N</i>	1,480	1,501	1,805	1,500

Obama administration, when asked about the ideology of the current court, approximately 40 percent considered it “middle of the road,” with approximately equal percentages considering it liberal or conservative (table 14). For the one measurement under the Bush administration, much more of the public (36 percent), but still a minority, rated the Court conservative. This question’s results did not exhibit event-based effects. However, it is unclear whether the variation that appeared in the questions that used “too” in their wordings is real or the result of respondents attempting to find cues—such as the ideology of the current administration—to help them answer the question as asked.

Chief Justice John Roberts

Given their relative lack of exposure and Americans’ general political illiteracy, it is no surprise that specific justices—particularly recent arrivals—are not household names to the public. Even five years after his appointment, only 28 percent were able to correctly identify John Roberts as the Chief Justice out of a list with two former justices (Thurgood Marshall and John Paul Stevens, who retired the same year) and then–Senate Majority Leader Harry Reid (table 15). After significant media coverage of the Court and Roberts’s majority opinion in the 2012 Affordable Care Act decision (*NFIB v. Sebelius*), recognition increased to

Table 15. Knowledge of Chief Justice Roberts. Pew:

2010: “(Next I’d like to ask you about some things that have been in the news. Please answer as best you can. If you don’t know the answer just tell me and we’ll move on to the next question.) ... Do you happen to know who is the chief justice of the US (United States) Supreme Court? Is it John Roberts, John Paul Stevens, Thurgood Marshall, or Harry Reid?”

2012: “(Next I’d like to ask about some things that have been in the news. Please answer as best you can. If you don’t know the answer just tell me and we’ll move to the next question.) ... Do you happen to know who is the Chief Justice of the US (United States) Supreme Court? Is it John Roberts, Stephen Breyer, William Rehnquist, or Harry Reid?”

	7/10 (%)		7/12 (%)
John Roberts	28	John Roberts	34
John Paul Stevens	6	Stephen Breyer	1
Thurgood Marshall	8	William Rehnquist	12
Harry Reid	4	Harry Reid	3
Don’t know/Refused	53	Don’t know/Refused	51
<i>N</i>	1,007	<i>N</i>	1,010

Table 16. Approval of Chief Justice Roberts. Quinnipiac University: “Do you approve or disapprove of the way John Roberts is handling his job as Chief Justice of the Supreme Court?” (national registered voters.)

	4/10 (%)	7/12 (%)	7/13 (%)
Approve	49	46	38
Disapprove	21	34	31
Don’t know/No answer	30	20	31
<i>N</i>	1,930	2,722	2,014

34 percent, though 12 percent believed former Chief Justice William Rehnquist held the position. In both years, about half could not even venture a guess.

Despite this, once identified, the public tends to have an opinion about Roberts's performance. Among registered voters (table 16), approval of his performance has slipped from 49 percent (2010) to 38 percent (2013). However, among the public overall (table 17), approval appears to have risen over the same period, from 48 to 55 percent. (Some of this increase may have been assisted by the placement of the 2013 Roberts rating question among questions about significantly less popular political leaders.) Both suggest greater popularity for Roberts over that of the Court, even if the trend is unclear. Since those who register to vote do tend to differ from the general public demographically (and possibly ideologically), it is not particularly surprising that there is a difference here (see Leighley and Nagler [2014]). However, the similar levels of "don't know/no opinion" responses indicate that even those who are more politically inclined are unsure as to how to evaluate the chief justice's work.

Politicization

Traditionally, scholars have assumed that the public sees the Court as "above politics," due to some combination of the tone of media coverage and the efforts of the justices themselves to avoid being perceived as traditional political actors (Lipset and Schneider 1983, 69; Baird and Gangl 2006). Though the justices are unlikely to change tack, the media now scrutinize the machinations of justices' decision-making. Just after the 2012 ACA decision was announced, media outlets speculated on the process that brought about the somewhat unanticipated opinion, including the justices' own concerns about losing legitimacy (Crawford 2012). The importance of the decision to partisan political agendas undoubtedly also contributed to the politicized nature of media coverage. Thus, it seems unlikely that the public would continue to perceive the Court in strictly apolitical terms, assuming they did in the first place.

Table 17. Approval of Chief Justice Roberts. Gallup: "Do you approve or disapprove of the way John Roberts is handling his job as Chief Justice of the US Supreme Court?"

	7–8/10 ^a (%)	9/13 (%)
Approve	48	55
Disapprove	27	34
No opinion	25	11
<i>N</i>	1,208	1,510 ^b

^aGallup/USA Today poll.

^bAsked of half sample, *N* is for full sample.

Earlier data from CBS surveys showed a public roughly divided but slightly in support of a more political confirmation process, with approximately 50 percent supporting consideration of “how [a] nominee might vote on major issues” during the Senate vote through January 2006 (table 18). But this cannot necessarily be seen just as a mandate for more politicization, as a

Table 18. Perceptions of the Politicization of Supreme Court Nominees.
 CBS: “When the Senate votes on a Supreme Court nominee, should it consider only that person’s legal qualifications and background, or along with legal background, should the Senate also consider how that nominee might vote on major issues the Supreme Court decides?”

	9/87 ^a (%)	9/91 ^b (%)	7/05 (%)	7–8/05 (%)	8/05 (%)
Legal	39	39	45	46	33
Issues too	52	49	47	46	57
Don’t know/No answer	9	12	8	8	10
<i>N</i>	839	1,519	632	1,222	871

	9/05 ^b (%)	10–11/05 (%)	1/06 (%)
Legal	36	35	41
Issues too	54	54	49
Don’t know/No answer	10	11	10
<i>N</i>	1,167 ^c	936	1,151 ^c

^aAnswer choices were “Consider background,” “Issues too,” and “Don’t know/No answer.”

^bOversample of African Americans.

^cAsked to Form A half sample.

Table 19. Perceptions of the Politicization of Supreme Court Decisions.
 CBS/*New York Times*: “In general, do you think the current US Supreme Court justices decide their cases based on legal analysis without regard to their own personal political views, or do you think they sometimes let their own personal or political views influence their decisions?”

	5–6/12 (%)	5–6/13 (%)	6/15 (%)
Legal analysis	13	20	16
Personal/political views	76	68	75
Some do/depends	4	3	2
Don’t know/no answer	7	9	7
<i>N</i>	976	1,022	1,007

supermajority of the public in recent years believes that the justices' personal and political views factor into their decision-making (table 19). Given this belief, the public seems to be rationally responding to an existing situation—that the process is influenced by non-legal factors—by expanding the scope of inquiry to include relevant information. This is consistent with cross-sectional studies (Bartels and Johnston 2012). That the percentage of those who believe that the justices only use legal analysis was higher in 2012 than 2013 may be due to the salience of the controversial (and highly ideological) ACA decision during this period. Though the 2012 poll was taken before the announcement, significant coverage of the case and its relation to the justices' personal beliefs and ideologies may have influenced the public's conceptualization of the process at that moment in time.

Conclusion

Measuring opinion about the Court is difficult for a number of reasons, not the least of which is the public's own uncertainty. However, there are also methodological impediments. Differences in question wording affect the validity of comparing the various measurements, as evidenced by systematic differences in trends. This was an issue for analyzing confidence in and ideology of the Court. Organizations may want to stick to the same questions in order to create comparable series, or because they have been previously tested and validated. However, it is important that they be clear about what the question actually ends up measuring—whether it is an aspect of the institution, its leadership, or other characteristics—and to not force opinions when it is unclear that they exist. That said, the existing body of questions does allow for some interesting considerations of measurement and wording effects, resulting in (hopefully) more accurate conclusions.

Perhaps because the Court rarely takes part in directly public-facing endeavors, public perceptions of various aspects of the Court seem to be influenced by a wide variety of factors, from the decisions handed down to the general ideological atmosphere in Washington, DC. Though conclusions about public opinion on the Court's ideology, the Chief Justice, and increasing politicization are difficult to draw, approval and confidence in the Court do both appear to be trending down. This does not appear to be the result of specific events such as appointments or decisions related to the Court. To what degree does this matter? On its face, it seems as though the Court's reputation is sliding, and it can do nothing about it. Despite this, the public retains its loyalty and thus (by most scholars' formulation) the Court retains its legitimacy. One way in which this is manifested is in the Court's reciprocal influence on opinions toward policy (Christenson and Glick 2015).

What *is* clear is that Americans today, if they didn't before, understand the Court as a body within the political sphere. They see decisions as political

events and see the justices as political (that is, self-interested and strategic) actors. Thus, the legitimacy does not seem to stem from some sense of the Court as a disassociated institution on a hill from which enlightened, purely legal, opinions emanate. Though the public may have a more or less sophisticated understanding of where the Court falls relative to the president or Congress, it does seem to associate the three. Given that opinion of the Court was not significantly affected by any number of scandals affecting Congress and the presidency prior to the 2000s, this may reflect the new media environment and the mood of political reporting since then (Baird and Gangl 2006). What would be the impact of a long-term slide in approval? Will the “reservoir of goodwill” be drained? Only time—and careful monitoring of the trends—will tell.

Appendix

CBS: CBS News/*New York Times*, CBS News

CNN: Cable News Network/ORC

GSS: NORC at the University of Chicago—General Social Survey

Pew: Pew Research Center

CBS: National sample. Mode is landline, and cell phone from 2012 on. (RR1) 11/04, 13.43%; 7/05, 11.78%; 1/06, 16.73%; 7/12, 9.35%; 3/13, 9.13%; 5–6/13, 8%; 10/14, 4%; 6/15, NA. Selection for landline phones is dependent on number of adults in household: if two adults live in the household, half of the time the adult responding is selected, the other half of the time the other adult is asked for; if more than two live in the household, the adult with the last or next birthday is asked for.

CNN: National sample. Mode is landline and cell phones. Response rates not available.

Gallup: National sample. Mode is in person prior to 1987; telephone afterward. Spanish-language interviewing included starting in 2008 for the Daily Tracking Survey and in 2011 for the Gallup Poll Social Series. (RR3) Prior to 1995, NA; 7/95, 28%; 5/96, NA; 7/97, 25%; 6/98, 27%; 6/99, 26%; 6/00, 21%; 12/00, 18%; 8–9/00, 19%; 1/01, 25%; 6/8/01, 18%; 6/11/01, 20%; 9/01, 16%; 6/02, 15%; 9/02, 16%; 6/03, 12%; 7/03, 18%; 9/03, 17%; 5/04, 19%; 9/04, 17%; 6/05, 16%; 5/05, 16%; 9/05, 15%; 6/06, 17%; 9/06, 16%; 5/07, 16%; 6/07, 15%; 9/07, 13%; 6/08, 10%; 9/08, 15%; 6/09, 13%; 8/09, 12%; 7/8/10, 11%; 7–8/10, 10%; 9/10, 8%; 6/11, 9%; 9/11, 11%; 6/12, 9%; 7/12, 9%; 9/12, 11%; 6/13, 7%; 7/13, 5%; 9/13, 5%; 6/14, 5%; 9/14, 5%; 6/15, 5%; 7/15, 5%. Selection method for landline phones was youngest male/oldest female currently at home prior to 2001. Between 2001 and 2014, selection was person in household with most recent birthday. From 2015 to present, selection is person in household with the next birthday.

GSS: National sample. Mode is face-to-face interview. Spanish-language interviewing included from 2006 on. (RR5) 1973, 1974, NA; 1975, 75.6%; 1976, 75.1%; 1977, 76.5%; 1978, 73.5%; 1980, 73.5%; 1982, 77.5%; 1983, 79.4%; 1984, 78.6%; 1985, 78.7%; 1986, 75.6%; 1987, 75.4%; 1988, 77.3%; 1989, 77.6%; 1990, 73.9%; 1991, 77.8%; 1993, 82.4%; 1994, 77.8%; 1996, 76.1%; 1998, 75.6%; 2000, 70.0%; 2002, 70.1%; 2004, 70.4%; 2006, 71.2%; 2008, 70.4%; 2010, 70.3%; 2012, 71.4%; 2014, 69.2%.

Pew: National sample. Modes are landline, and cell phone from 2009 on. Spanish-language interviewing included consistently from 2011 on. (RR3) 1/01, 3/01, 7/01, NA; 06/05, 21%; 7/05, 17%; 10/05, 24%; 2/06, 22%; 7/06, 17%; 12/06–1/07, 18%; 7/07, 17%; 4/08, 17%; 3–4/09, 16% (landline), 11% (cell); 2/10, 18% (landline), 7% (cell); 4/10, 15% (landline), 10% (cell); 7/10, 15% (landline), 12% (cell); 4/12, 11% (landline), 7% (cell); 6–7/12, 12% (landline), 6% (cell); 7/12, NA; 12/12, 12% (landline), 10% (cell); 3/13, 12% (landline), 9% (cell); 7/13, 8% (landline), 6% (cell); 4/14, 8% (landline), 6% (cell); 7/14, 8% (landline), 7% (cell); 3/15, 9% (landline), 8% (cell); 7/15, 9% (landline), 11% (cell). Selection for landline phones is youngest male/youngest female.

Quinnipiac University: National sample of registered voters. Modes are landline and cell phones. Response rates not available. Selection for landline phones is person with next birthday.

Requests for response rates and methodological details were made to the other organizations but were not made available.

References

- Baird, Vanessa A., and Amy Gangl. 2006. "Shattering the Myth of Legality: The Impact of the Media's Framing of Supreme Court Procedures on Perceptions of Fairness." *Political Psychology* 27:597–614.
- Bartels, Brandon L., and Christopher D. Johnston. 2012. "Political Justice? Perceptions of Politicization and Public Preferences toward the Supreme Court Appointment Process." *Public Opinion Quarterly* 76:105–16.
- . 2013. "On the Ideological Foundations of Supreme Court Legitimacy in the American Public." *American Journal of Political Science* 57:184–99.
- Christenson, Dino P., and David M. Glick. 2015. "Issue-Specific Opinion Change: The Supreme Court and Health Care Reform." *Public Opinion Quarterly* 79:881–905.
- "Confidence in Institutions: Trends in Americans' Attitudes toward Government, Media, and Business." Associated Press—NORC Center for Public Affairs Research. <http://www.apnorc.org/projects/Pages/HTML%20Reports/confidence-in-institutions-trends-in-americans-attitudes-toward-government-media-and-business0310-2333.aspx#study>.
- "Congress and the Public." Gallup. <http://www.gallup.com/poll/1600/congress-public.aspx>.
- Crawford, Jan. 2012. "Roberts Switched Views to Uphold Health Care Law." *CBS News*, July 2. <http://www.cbsnews.com/news/roberts-switched-views-to-uphold-health-care-law/>.
- Frankenberg, Erica, and Rebecca Jacobsen. 2011. "The Polls—Trends: School Integration Polls." *Public Opinion Quarterly* 75:788–811.

- Gibson, James L., Gregory A. Caldiera, and Lester Kenyatta Spence. 2003. "Measuring Attitudes towards the United States Supreme Court." *American Journal of Political Science* 47:354–67.
- Leighley, Jan E., and Jonathan Nagler. 2014. *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States*. Princeton, NJ: Princeton University Press.
- Lipset, Seymour Martin, and William Schneider. 1983. *The Confidence Gap: Business, Labor, and Government in the Public Mind*. New York: Free Press.
- Martin, Andrew D., and Kevin M. Quinn. 2002. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953–1999." *Political Analysis* 10:134–53.
- Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83:557–65.
- Shaw, Greg M. 2007. "The Polls—Trends: Abortion." *Public Opinion Quarterly* 67:407–29.
- Soroka, Stuart N., and Christopher Wlezien. 2010. *Degrees of Democracy: Politics, Public Opinion, and Policy*. Cambridge: Cambridge University Press.