

Preserving the Integrity of Courts:
Can State Courts Influence Public Knowledge and Perceptions of the Judicial Branch?

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Thesis directed by Associate Professor Vanessa A. Baird

Although the total number of incoming cases at the federal-level in 2013 was over 350,000, the total number of incoming cases at the state-level hovered between 90 and 100 *million*. To say that state courts are important to the American political system is an understatement. They determine, to paraphrase former Justice William Brennan, whether the United States truly lives up to the ideal of equal justice for all. It is therefore surprising that very little research has examined what people know or how people feel about these institutions. In this dissertation, I attempt to uncover the extent of the public's knowledge of their state judicial branch, how they come to know about it, and how the public evaluates their state courts.

The thesis of this dissertation is that people's knowledge and evaluations of courts is dependent on what those courts are doing. Simply put, people are responsive to court decisions. Using four different datasets, two unique to this dissertation, I find overwhelming support for this contention. People's knowledge of the ideological leanings of their state supreme court is a function of court actions that attract the attention of the state media such as issuing a pro same-sex marriage decision or allowing for more executions to take place. And people's judgments of their state courts is a product of how ideologically extreme they are. Democrats view extremely liberal courts as significantly more impartial and legitimate than Republicans while Republicans view extremely conservative courts as more impartial and legitimate than Democrats.

Ideologically balanced courts produce no meaningful differences between partisans and are viewed as being highly impartial and legitimate.

The findings in this dissertation challenge conventional wisdom by suggesting that a sizable portion of the American public is aware of their state court system and that public evaluations of the judiciary can be grounded in partisanship when they act partisan in nature. And, I believe I provide an answer to a recent puzzle in judicial politics: why support for the Supreme Court is unrelated to party identification. I argue that it is because the Court is ideologically balanced in its decision-making.

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Chapter I: Introduction

Conventional wisdom would have us believe two things about the relationship between the American public and the judicial branch of government: First, that people know very little about their courts and judges. Second, that partisan and ideological predispositions play almost no role in how people evaluate their courts. And there is empirical support for both contentions.

It is certainly not difficult to find reports detailing Americans' lack of knowledge about politics in general. But court-specific knowledge seems especially lacking. A 2010 Pew Research Center report entitled "The Invisible Court" concludes that "most Americans have no idea who 'Roberts' is" (The Invisible Court 2010, para. 1). More recently, the Pew Research Center published another report entitled "Dim Public Awareness of Supreme Court as Major Rulings Loom." In it, Meredith Dost (2015) concludes that the Supreme Court "remains an institution whose members – and even the facts about some of its more important decisions – are a mystery to many Americans" (para. 2).

If the Supreme Court is truly "invisible," and public knowledge of that institution is described as "dim," then it would make sense that the general public is incapable of evaluating the Supreme Court using the partisan heuristic they use to evaluate all of the other branches of government. Democrats and Republicans afford the Supreme Court similar levels of support (Caldeira and Gibson 1992; Gibson and Nelson 2014a), and that finding is perhaps because the Court is *different* than the other branches of government.

There is reason to believe, however, that what can be considered conventional wisdom about the Supreme Court is not generalizable to all courts. Just like theories of judicial decision-making about Supreme Court justices (see Segal 1997; Segal and Spaeth 2002) might need adjustment due to unique pressures state judges face from hostile legislatures, governors, or even

its state electorate (see Huber and Gordon 2004; Langer 2002), so too might what we know about public knowledge and evaluation of the judicial branch have to change due to differences between state courts and the U.S. Supreme Court.

This leads to my puzzle here. If knowledge of courts is so low and if people never (or rarely) evaluate courts based on partisanship, then why is there overwhelming evidence that people are capable of voting for qualified judges that represent people's policy preferences in judicial elections (Bonneau and Cann 2015b)? These findings are seemingly incompatible. It cannot both be the case that people know so little about courts that they fail to evaluate courts based on partisanship *and* that people are capable of voting "correctly" in judicial elections, because the only way people can vote based on their policy preferences is if they know enough about courts and judges to base their voting decisions on who most closely matches their partisan leanings.

In this dissertation, I seek to examine how generalizable the conventional wisdom about what people know and how people evaluate the Supreme Court truly is. In other words, is what we know about the Supreme Court translatable to all courts? To do this, I turn to the American states. The courts of the American states vary on important dimensions that might both increase the visibility of the court system (and hence knowledge, overall) as well as provide more partisan information about courts to the public. Given these differences in how courts are structured and what courts are doing, how does the public respond?

I advance the argument that differences in court structure and court ideology shape public knowledge and perceptions of the judicial branch. Courts that are more visible increase knowledge and that knowledge can lead to partisan evaluations of courts under certain circumstances. A central contention of this dissertation is that the reason why the Supreme Court

appears to avoid partisan evaluations is only partially to do with it being a “court.” Instead, its ideological balance of decisions, issuing roughly half liberal and half conservative decisions in any given term (Bartels and Johnston 2013) is giving both Democrats and Republicans some decisions to cheer about and some decisions to protest. But in perhaps recognizing that “you can’t win them all,” I argue that partisans support ideologically balanced courts at equal – and high – rates.

This dissertation is mainly about leveraging variation at the state-level to gain insight into counterfactual situations when it comes to the Supreme Court. What if the Court were structured differently? What would happen if the Court started making an ideologically unbalanced series of decisions? The answers to those questions are unknown. But, in other respects, I also seek to contribute substantially to research on state courts, which is a small but growing literature. Political scientists have only just begun to explore the determinants of public opinion toward the state judicial branch. The findings in my dissertation, which all lead to the conclusion that people *are responding to* their state courts, suggests people have meaningful beliefs about their state judiciary. What those beliefs about their state courts are, and why people hold different views, however, are questions well worth exploring, and I do so in this dissertation.

Why Study Public Opinion toward Courts?

Studies of public opinion toward the executive and legislative branches of government need little in the way of justification for their importance. Discovering how well a country’s institutions and politicians translate the will of the people into public policy is, arguably, the purest measure of how democratic a country is. The link between public opinion and policy is at the heart of representation studies. And, as Plotke (1997) argues, representation *is* democracy.

The relationship between public opinion and the courts, however, is a trickier one. Often, we may want courts to follow the will of the people. And yet, there are good normative reasons why we may not want courts to directly translate public opinion into decisions. The whole purpose of having an unelected federal judiciary, according to Hamilton, is to prevent the legislature from enacting laws that are contrary to the Constitution: “[W]henever a particular statute contravenes the Constitution, it will be the duty of the judicial tribunals to adhere to the latter and disregard the former” (*Federalist No. 78*).

To protect the Constitution, unelected judges may occasionally have to strike down laws enacted and enforced by the elected branches of government. It could be argued that every instance of a court striking down a law using its power of judicial review contravenes the will of the people. For courts to legitimately be able to exercise this power, they require large reservoirs of “goodwill” from the public (Caldeira and Gibson 1992; Gibson, Caldeira, and Baird 1998). Why? Because if the public views a court’s decision as legitimate (even if they do not like it), then the other branches will be leery to threaten the court. And if they do threaten the court, such actions often fail when the court is well-respected. Or, alternatively, the other branches of government will be pressured to provide the money and the arms to implement the court’s decisions.

Perhaps the most widely known example of how powerful of a role public opinion plays in preserving the integrity of the judicial branch comes from the New Deal era. Faced with a hostile Supreme Court, FDR proposed to Congress increasing the number of justices on the high court to gain a majority that would uphold his New Deal legislation. Given the popularity of FDR, it is truly puzzling that support for this “court-packing” plan never reached fifty percent (Caldeira 1987). Moreover, in Congress, even with mass support for FDR’s policies, Roosevelt’s

own vice president is reported to have held his nose and gestured a thumbs down to the plan when it was read on the Senate floor (Shesol 2010). In a time where many people in the country were starving, people still balked at changing the institutional structure of the Supreme Court. What is even more surprising is that this act by Roosevelt was perfectly legal, constitutionally. Though this example is not representative of how *all* American citizens reacted to the Court's policies, it shows that people tended to support the institutional integrity of the Court despite having extremely low levels of support for decisions it was making. The role public opinion plays in preserving the integrity of the judicial branch might not be as obvious as it is for the other branches of government, but this example highlights its importance. Public support insulates courts from successful threats to its ability to make independent decisions.

Along the same lines, the Supreme Court's ability to protect the rights of a political minority from a tyrannical majority would also be hampered if not for its widespread public support. Although the extent to which the Court was capable of social change as a result of *Brown v. Board of Education* (1954) is contested (Rosenberg 2008), the more general thesis of an ineffective Court seems all but refuted in the face of nearly unanimous and immediate compliance with the high court's recent decision legalizing same-sex marriage in *Obergefell v. Hodges* (2015). This ability, however, can only come when the public strongly believes that people like Kim Davis are in the wrong to not issue same-sex marriage licenses after a court order requiring her to do so (Craighill and Somashekhar 2015).

Thus far I have argued that why we should study public opinion of courts is because judges rely on that support to have their decisions enforced and obeyed by both the other branches of government and American citizens. Threats to the independence of the judiciary –

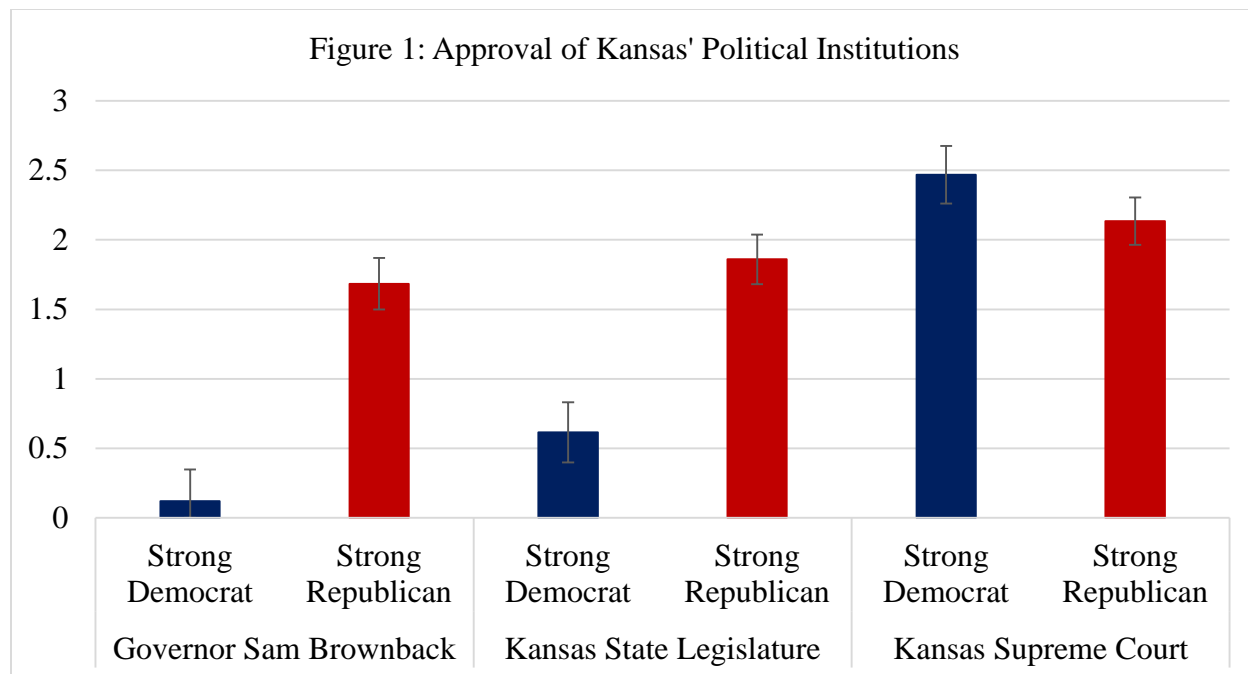
which often come after unpopular decisions – are doomed to fail when people see the High Court as legitimate.

The examples thus far are of why studying public opinion of the Supreme Court is important. But what about public opinion of state courts? To the extent that state appellate courts have all of the same powers as the U.S. Supreme Court and are the final arbitrator on a far greater number of legal controversies than our highest Court, all of the previous arguments presented, such as requiring support from the people to be an effective institution, have even greater weight for the state judicial system. This is true because threats to state court legitimacy come quite often. Even the *New York Times* has reported on one such attack on a state judiciary. After an unpopular ruling from the Kansas Supreme Court, Republican lawmakers sought to defund the entire judicial branch if the Kansas Supreme Court did not allow for changes to the judiciary's structure which would give lawmakers more control over the courts (Eckholm 2016).

The fact that the vast majority of state court judges are actually elected (Geyh 2003) or, at the very least, susceptible to reappointment mechanisms, provides additional motivation for studying public opinion of the state judicial branch. Elections are often argued as the legitimizing force for the other political institutions. Their effect on the courts, however, is far from settled (Benesh 2006; Cann and Yates 2008, 2016, Gibson 2008, 2012; Kelleher and Wolak 2007).

Determining the roots of public support for state courts is of critical importance not just because the courts rely on said support but because judges may face *electoral consequences* for not having it. For example, three justices on the Iowa Supreme Court were promptly removed from office in their retention elections for issuing a ruling requiring the state to issue same-sex marriage licenses. It appears that, at least in this case, support for the Iowa Supreme Court was partially dependent on partisanship, with Republicans in the state extremely unhappy with the

high court's ruling and voting accordingly. In other cases, it appears that support for the state's highest court has little to do with partisanship. Even after its controversial ruling requiring the legislature to spend more money on its education system, support for the Kansas Supreme Court remains high and the differences between Democrats and Republicans in approval of that institution is negligible (see Figure 1).



This is certainly a puzzle and one worth exploring. I attempt to explain why partisanship appears to not play a role in public evaluations of the Supreme Court by theorizing and testing conditions where I believe partisanship *does* play a role at the state-level. By understanding where support for courts comes from, we can begin to predict the relative success of retaliation efforts toward the judiciary. And if we can start predicting that, we might have a much clearer idea of when courts are capable of acting independently and when the court system truly is a “hollow hope” (Rosenberg 2008).

The Confused Literature on Support for State Courts

While scholars have been studying public opinion toward the United States Supreme Court for decades, research on how people feel about their state courts is relatively recent. We know some factors that affect public evaluations of state courts, and I do my best to control for these factors throughout the dissertation. Benesh and Howell (2001) found that having jury experience with courts leads to higher levels of confidence in local courts while being a defendant or plaintiff leads to having lower levels of confidence. Their study was confined to the state of Louisiana, but Benesh (2006) later replicated those findings using a nationally representative sample. In that paper, Benesh (2006) modeled public confidence in “courts in your community” using a series of individual-level indicators as well as two state-level factors: partisan judicial elections and the crime rate. Although a state’s crime rate failed to reach conventional levels of statistical significance, living in a state that holds partisan judicial elections decreased confidence in local courts (Benesh 2006).

Concerns about the negative effects of judicial elections on how the American public views the judicial branch of government sparked additional research. Although Benesh (2006) found *partisan* judicial elections to have a negative effect, the empirical evidence regarding the effects of judicial elections on confidence or support since then have actually been quite mixed (Cann and Yates 2008, 2016, Gibson 2008, 2012; Kelleher and Wolak 2007; Wenzel, Bowler, and Lanoue 2003). Some have found a similar negative effect but the negative coefficient is being driven by low-knowledge respondents (Cann and Yates 2008). Others have found a negative effect but only for *high-knowledge* respondents (Wenzel, Bowler, and Lanoue 2003). Some scholars, in controlling for judicial selection mechanisms, found no statistically significant differences between the four broad categories (Kelleher and Wolak 2007) while still others found

a *net positive* effect of judicial elections on public support for state courts (Gibson 2012). Indeed, the very latest research has, once again, uncovered an overall negative effect for judicial elections (combining nonpartisan and partisan elections), reproducing their findings from nearly a decade earlier (Cann and Yates 2016). Truly any number of factors could be causing these mixed results. I suspect, however, that the effects of judicial elections are not uniform on the public and will explain why in Chapter III.

There are very few consistent findings in the literature on public evaluations of state courts. This lack of scholarly consensus on what drives people's support for courts is almost certainly due to the less than ideal measures of support that come with the available data. Often the referent is vague; do people have the same opinions of "courts in your community," as they do say, the state court system, or the state supreme court? Perhaps, but probably not. Can confidence, approval, and legitimacy all be safely lumped under the heading of "support"? Almost certainly not, as a distinction between diffuse support and specific support for courts has existed for quite some time (see Gibson, Caldeira, and Spence 2003a) for the precise differences). Hopefully, more studies will help clarify these confusing findings, including my own.

I seek to contribute to this literature by first, dispelling the myth that people know little about their state courts (such that there is reason to continue studying the public's relationship with these important political institutions); second, I hope to contribute to this literature by showing the conditions under which partisan evaluations of courts are most prominent and suggesting that perhaps the effects of judicial elections are non-uniform on the American public (which might be a cause for the conflicting findings in the literature); and third, by corroborating

my findings in a more internally valid setting with more precise ideological information about specific cases.

Plan for the Dissertation and Overview of Findings

I begin the next chapter, Chapter II, by providing a brief qualitative analysis of the extent to which the media cover state supreme courts and their decisions. This analysis is not comprehensive (I only look at ten states), but the findings reveal that there are often dozens of stories about the state supreme court each year *on the front page* of the most circulated newspaper in the state. More often than not, these stories are about the high court's primary function – deciding cases. There appears to be enough information out there about these courts for those who seek it (and even those who do not)!

This qualitative analysis says nothing, however, about the extent to which people know about their state courts and how they come to know it. Is knowledge merely a function of political interest and education? I continue to explore these questions in Chapter II using questions from two different surveys asking people both about their knowledge of the structure of their state court system as well as their perception of the ideological leanings of their state's highest court. I find that a sizable portion of the American population is aware of their state courts and nearly half can correctly identify the ideological tenor of their state's highest court.

Additionally, based on the findings, people's level of knowledge of the state court structure is tied more to people's ability (as measured through their level of education) and motivation (as measured through their interest in politics) while knowledge of their state high court's ideology is mostly a product of *what their state supreme court is doing*. State supreme courts that issued high profile gay marriage decisions and whose judiciary allowed for the

execution of more individuals appear to be easily recognizable as liberal and conservative courts, respectively. The findings in this chapter are far more nuanced than highlighted here, but one can safely conclude that information about state courts is available through the news media. And, not only do a significant number of citizens know about their state courts, but that knowledge is often dependent on what those courts are doing. If people know more or less about their courts based on court actions, then it is reasonable to hypothesize that public perceptions and evaluations of state courts are, at least in part, dependent on the decisions those courts make.

In the next chapter, Chapter III, I test the central hypothesis of this dissertation: that partisan evaluations of courts come from the public when courts *act in a partisan manner*. Courts may be “special” in the sense that they may have far greater leeway to make decisions that are controversial and displeasing to some without triggering an immediate backlash. But they are not immune to being evaluated based on partisanship as previously implied by the literature. For people with even moderate levels of awareness of the state judiciary, Democrats will view liberal courts as significantly more impartial than Republicans while Republicans will view conservative courts as significantly more impartial than Democrats. While seemingly obvious, this conclusion makes a major contribution to not only the judicial politics literature (beyond state courts) but also provides a broader theory for how people evaluate political institutions more generally. Political institutions that make decisions and policies pleasing to some people some of the time will draw support from all partisan groups in the population. It appears that some courts, like the United States Supreme Court are capable of doing this. The U.S. Supreme Court issues roughly half liberal, half conservative decisions in any given term and based on the findings in this chapter, it appears that such actions taken are *precisely* the reason the highest court is not evaluated based on identifying with one or the other major political parties.

While Chapter III provides evidence that people appear to be evaluating courts based on their partisan leanings when such courts are ideologically extreme in their overall decisions, lingering questions remain. Due to its research design, I cannot truly test the causal mechanism underlying the findings. From Chapter II, it appears people are responsive to court actions, and from Chapter III, it appears that people evaluate courts based on partisanship. Lacking, however, is an *internally valid* test of the causal mechanisms advanced in this dissertation. When faced with a partisan court, do people react the way I would expect? Are ideologically balanced courts viewed as impartial across the ideological spectrum? In this final empirical chapter of the dissertation, I conduct a unique survey experiment that varies both the ideological balance of the court as well as its level of judicial consensus to test whether people receive and respond to partisan and legalistic signals appropriately. I find strong corroborating evidence for the finding that people's partisan predilections significantly influence public perceptions and evaluations of courts when the court is ideologically extreme in its decision-making. I also find that ideologically balanced courts are, all things considered, viewed as more impartial than biased and more legitimate than illegitimate from across the entire partisan and ideological spectrums.

Despite the lack of scholarly attention, state courts have a major impact on the American political system. As former United States Supreme Court Justice William Brennan forcefully explains:

“Our states are not mere provinces of an all powerful central government. They are political units with hard-core constitutional status and with plenary governmental responsibility for much that goes on within their borders...[T]he composite work of the courts of the fifty states probably has greater significance in measuring how well America attains the ideal of equal justice for all...We

should remind ourselves that it is state court decisions which finally determine the overwhelming aggregate of all legal controversies in this nation” (227, 236).

It is perhaps impossible to truly answer the question of whether state courts are satisfactorily achieving equal justice for all. But, we *can* examine how well the people think their courts are doing at achieving this ideal. Courts that are capable of making the public believe the judiciary and its judges purge their political and personal biases when issuing decisions might not only gain the public’s respect, admiration, and support – all desirable benefits – but they might actually be as close to *just* institutions as we can hope to achieve.

Chapter II: Citizens and Their State Courts

The Sources of Knowledge of the State's "Least Dangerous Branch"

What do people know about their state courts? How do they come to know it? For an institution whose processes are generally shrouded in mystery (Weinstein and Zimmerman 1977), conventional wisdom suggests the public is largely unaware of their government's third branch. Indeed, widespread public ignorance of the judiciary is levied as an argument against the use of judicial elections (Geyh 2003). Still, some believe the operations of courts ought to remain out of the public's eye in order to help individuals believe courts make decisions based on law (Casey 1974), and to help courts remain in high esteem by the American public (Hibbing and Theiss-Morse 1995).

Here, I evaluate two kinds of knowledge: (1) state court system knowledge and (2) state supreme court ideological knowledge (measured by whether people can accurately say how liberal or conservative their state supreme court is). Building on work by Delli Carpini and Keeter (1996), I measure attributes of "ability, motivation, and opportunity" to show that people's *understanding of judicial structure* is a function of ability and motivation while *knowledge of judicial ideology* is a function of motivation and opportunity.

I argue that a (surprising) number of people understand the courts and pay attention to what they are doing. I also argue that sources of public understanding regarding state court structure differ from sources that predict knowledge of court ideology. I find education, political interest, and experience each predict understanding while ideological knowledge is predicted by a state supreme court's actions on salient issues, thus providing individuals ample opportunity to learn about the politics of the court.

In future chapters, I argue people respond to ideological balance of state high court decisions in predictable ways. For this argument to have a modicum of face validity, I first

substantiate the claim that people do indeed possess basic knowledge of state court actions. Moreover, I show that actual information about court decisions leads to accurate information about judicial ideology. This finding contrasts with the observation that education has little impact on perceptions of judicial ideology. Taken together, these findings suggest court actions, not merely individual characteristics, lead to accurate perceptions of court behavior.

My results challenge conventional wisdom, precisely the position advocated by previous scholars that citizens have relatively low knowledge of courts (Geyh 2003; Jamieson and Hennessy 2007) and have lower knowledge of state institutions than federal institutions (Delli Carpini, Keeter, and Kenamer 1994). If very few truly know the purpose or ideological balance of their state courts, then the argument I advance later – that differences in aggregate public evaluations of the judicial branch are partly shaped by the actions of that branch – would be unlikely to hold water. For courts to affect how people perceive them, people need to process and hold onto information about what courts are actually doing.

To this end, I first provide a brief qualitative analysis of the extent to which media cover state supreme courts. People cannot reasonably be expected to know about state courts if they are rarely covered in print. In this section, I analyze the dozens of stories about state courts that made the front-page of the most circulated newspaper for ten states in 2005. I find that the coverage of state courts is far from minimal, leading me to speculate that the media environment to which people rely on for political information contains enough coverage of state courts for people to have respectable levels of knowledge of them and to form meaningful opinions the state judicial branch.

I then present descriptive statistics for overall levels of state court awareness using questions designed to directly tap into how much people know about their state courts and

constitutional system. I show that public awareness of state courts exists and perhaps shockingly, is similar to awareness levels of national politics. These statistics provide prerequisite support for the central contention of my dissertation, because some people clearly know about their state courts. I then turn to the question of *who* knows more about their state courts than others.

Early research on the foundations of political knowledge largely focuses on individual-level explanations. These explanations include political interest, intelligence, and exposure to print media (Luskin 1990) as well as differences between politically relevant subgroups like gender and race (Delli Carpini and Keeter 1996). This research has sparked an important line of inquiry into the reasons why these particular characteristics produce knowledge gaps, with gender receiving the most scholarly attention (Burns, Schlozman, and Verba 2001; Dolan 2011; Mondak and Anderson 2004). Although these authors acknowledge the role information and political environments play in the development of knowledge, empirical evidence supporting these factors has been scant (Jerit, Barabas, and Bolsen 2006).

Citizen knowledge of state judiciaries is a function of *how* courts are structured and *what* courts are doing. Both of these explanations affect information environments the public is exposed to. In other words, they affect the public's *opportunity* to learn more about their courts. Courts designed to be out of the public's eye should produce lower levels of knowledge while courts that issue rulings on subjects of particular interest to the public should bring these courts into the spotlight and hence increase overall levels of knowledge. If state courts can influence citizen knowledge of the judicial branch, then they might be capable of influencing public evaluations. And if people hold meaningful opinions of courts, they can hold judges accountable in the states that hold judicial elections.

Using two different surveys, I leverage natural variation that exists across the American states to assess the relative impact of individual-level characteristics, state political climate, and court-specific factors in explaining why some people know more about state courts than others. I run separate multilevel models assessing people's knowledge of the basic role and structure of state courts as well as their knowledge of the ideological tenor of the state high court. I find that how courts are structured and what courts are doing shape both measures of knowledge, although their relative impact is far stronger in predicting correct ideological assessment of state supreme courts. That is, determinants of public knowledge of judicial structure are individual-specific (e.g. education and attention to politics) while determinants of public knowledge regarding judicial ideology are court-specific (e.g. court rulings and structure).

Newspaper Coverage of State Courts – A Qualitative Analysis

The purpose of this section to provide some evidence that it is at least plausible for some segment of society to be aware of both the decisions of state courts and have at least a rough idea of the level of judicial consensus through news media coverage. Anecdotally, it would not take long to find news stories that discuss in detail both the outcome of court decisions and whether or not the court was unanimous. Sometimes partisan cues are present to further help readers develop attitudes about the court. Consider this first paragraph from the Alaska Dispatch News, currently the most circulated newspaper in Alaska: “In two unanimous decisions, the Alaska Supreme Court on Friday came down solidly on the side of a group fighting the proposed Pebble mine, backing efforts by two Alaska icons, former first lady Bella Hammond and state constitutional convention delegate Vic Fischer, to give the public a voice in mineral exploration” (Demer 2015). Bella Hammond is a former First Lady and the wife of the late Jay Hammond

who is widely known in Alaska as a “GOP environmentalist” (Bloodworth 2013). Alaskans who have an opinion on the environment versus economic development debate will have an opinion about this decision.

These two attributes of court decisions are consistently in news coverage of courts. From the New Jersey Star Ledger: “The state Supreme Court ruled on Tuesday that Gov. Chris Christie can slash billions of dollars in contributions from New Jersey’s troubled public employee pension system” (Marcus 2015). In the third paragraph, it mentions the level of judicial consensus: “Judges split 5-2 reversing the lower court’s ruling that ordered Christie had broken his own landmark pension law and had to work with the Legislature to comply with it”(Marcus 2015). Again, the reporting described the outcome of the decision, linked the decision of the outcome with a partisan cue (Republican Governor Chris Christie), and informed the public of the level of judicial consensus.

A more systematic analysis should further bolster the claim that these news stories represent a broader trend in reporting. An analysis of all 2005 newspaper articles from *The Denver Post*, Colorado’s most circulated newspaper, reveals that of the one hundred and fifty-three times the Colorado Supreme Court was mentioned, close to forty percent of those were reports about court decisions either just recently made or in the past. Another fifteen percent were either about the high court deciding to hear a case, declining to hear a case, or the losing party of a lower court ruling appealing to the Colorado Supreme Court. At the end of the day, avid newspaper readers would hear about the decisions of the state supreme court roughly twenty percent of the days in a given calendar year, providing some plausibility that information about state high courts and their decisions is certainly available to the mass public.

Of the four decisions of the court that made the front page of the *Denver Post* after the day of the decision, in *every single one* of those articles the level of judicial consensus was mentioned. Sometimes, although not always, the dissenting justice's argument (if there even was a written dissent) was described. When a state court decision did not make the front-page of the newspaper, it almost always made the front-page of the politics section, so for those interested in politics, state high court decisions were front-and-center. While these statistics are by no means a comprehensive analysis of news coverage (the scope of which would be outside of this dissertation), I have no reason to believe what evidence I have uncovered about the reporting of state high court decisions is substantially different in other states or that the news stories chosen are anomalies in court reporting. The conclusion one should draw is that segments of the public could theoretically be aware of what state high courts are doing both in terms of their decisions and their level of consensus.

To further demonstrate the plausibility that the American public might not be completely oblivious to their state courts, I conducted a content analysis of the most circulated newspaper in each state, for ten randomly selected states (see Appendix Table 1).¹ For each newspaper, I used the search terms “[STATE] Supreme Court,” “Supreme Court of [STATE]” and “state supreme court” and limited the search to all front-page news articles in 2005.² These searches were conducted on Westlaw, when available, and alternative electronic archive search engines when the newspaper was not searchable via Westlaw.³ Articles that announced a state high court decision were subsequently coded based on whether there was an *explicit* partisan cue

¹ Circulation data was obtained from the Alliance for Audited Media (formerly known as the Audit Bureau of Circulations). I based the ranking on the largest reported circulation as of March 2005.

² The states and newspapers used in the analysis are in Table 1 found in the Appendix. Oklahoma is one of the ten states. In addition to the normal search terms used for Oklahoma, I added two: “Oklahoma Court of Criminal Appeals” and “Court of Criminal Appeals of Oklahoma.” This is to reflect Oklahoma’s two courts of last resort.

³ LexisNexis was used for Pennsylvania and ProQuest Archiver was used for South Dakota.

surrounding the decision⁴ and whether the level of judicial consensus was revealed. Although explicit partisan cues might not be necessary to determine the overall ideological direction of a court's decisions, if prevalent, they would certainly make people more aware of their state high court's ideological leanings.

Newspapers tend to report the level of judicial consensus at a very high rate. Of the thirty-nine state high court decisions that made the front-page of the newspaper, only eight (slightly over 20%) failed to give any cue about the level of consensus (such as the actual vote breakdown or using words like “unanimous,” “split,” or “divided”). Slightly more than 25% of the articles provided an *explicit* partisan cue by quoting clearly partisan political figures like the governor or a state representative or nationally known, politically charged, interest groups such as Greenpeace, NAACP, or state-specific interest groups whose purpose was clearly stated in the articles to protect “Traditional Family Values.” Most articles provided people with some direction on how to evaluate the decision such as having an officer of the law either agree or disagree with the decision, or having a prominent community member discussing the decision's implications. Moreover, these were only articles about decisions made the day before *and* reached the front-page. Based on this collection, people will most likely be made aware of, on average, four major decisions by their state supreme court a year – although there is some variation from state to state.

Finally, over thirty-five percent of the American public reports having direct experience with their local courts.⁵ People might meet their local judges and some might even see their state supreme court in action due to some state high courts conducting their business in multiple

⁴ My definition of a “partisan cue” is broad. It includes both politicians commenting on the case, the author commenting on either the decision or the judges making the decision in a partisan or ideological manner, or a well-known interest group making a statement about the decision (such as the NRA or Greenpeace).

⁵ Statistic calculated using the 2006 Annenberg Judicial Independence Survey and the appropriate survey weights.

locations throughout the state like the Tennessee Supreme Court.⁶ The data collected here was merely to demonstrate the plausibility that information about state courts is readily available, and that a nontrivial portion of Americans have a good chance of knowing about their state supreme courts and the decisions they make. There are plenty of obscure government positions of which the American public has little chance of being aware – judges on state courts should not be included in that list.

Are People as Uninformed as We Think?

Conventional wisdom suggests people know little about courts. Even at the federal level, the Supreme Court is the least visible *national* institution (Hibbing and Theiss-Morse 1995). As evidence of a crisis in civic education in the United States, a January 2016 report from the American Council of Trustees and Alumni found that nearly ten percent of college graduates believe “Judge Judy” serves on the United States Supreme Court (New Report Exposes the Crisis in Civic Education among College Students 2016). And the media tend to highlight this statistic in their reporting (Diaz 2016; Parco 2016).

Similar stories can be found with headlines like “More Americans Know Snow White’s Dwarfs than Supreme Court Judges,” “Most Americans Know Little about the Supreme Court Health Case,” and “Most Americans Can’t Name a U.S. Supreme Court Justice.” These stories represent the conventional wisdom that people are ignorant about politics (Somin 2013) and especially the judicial branch.

This conventional wisdom that people have low knowledge of the Supreme Court has been gently corrected (Gibson and Caldeira 2009a, 2009b). Supreme Court confirmations grab

⁶ See Tennessee Supreme Court Receives National Sandra Day O’Connor Award for its Program to Educate Students (2016)

the attention of the American public, and people tend to recognize the name of the current Chief Justice, even if they cannot recall it for pollsters (Gibson and Caldeira 2009a). Exceedingly high percentages of Americans believe there is an African American justice on the Court, a woman on the Court, and know that justices on the Supreme Court are appointed (Gibson and Caldeira 2009a). What goes understated or unmentioned in most media reports is that nearly 62% of college graduates *correctly* identified Elena Kagan, the newest appointee at the time, as a justice on the United States Supreme Court. Public knowledge of the Supreme Court is often incomplete but it is higher than often portrayed (Gibson and Caldeira 2009a).

Despite findings that indicate the American public may be more aware of the Supreme Court than we thought, when it comes to knowledge of state courts the conventional wisdom is that people know so little about them that they are completely incapable of casting an informed vote in judicial elections (Geyh 2003). Geyh (2003) advances the “Axiom of 80” argument which contains four generalizations that lead the author to conclude that judicial elections “stink.” For the purposes here, the axiom that paints the American public in an uninformed light is that “roughly 80% of the electorate cannot identify the candidates for judicial office” (pg. 46). Although there is evidence that people use the partisan heuristics available in judicial elections to their advantage when voting in these elections (Bonneau and Hall 2009), perhaps knowledge is limited to vague knowledge of judicial candidates close to an election.

The American public also does not appear well-informed about state politics in general. While people tend to express greater trust and confidence in state and local government than they do the federal government (Tierney 2014), scholarship suggests people know less about state government than they do about national government (Richardson and Konisky 2009). This evidence comports with the conclusion that “the structure of local television news is not optimal

or even sufficient for serving the public in state legislative news” (Alvarez 2010, pg. iv). Since 2003, the already limited full-time reporters of state politics have been cut by more than one-third (Haughney 2014). These findings would suggest that *even if* people wanted to learn more about state politics, it is becoming increasingly more difficult to do so.

Is Knowledge Simply a Function of Psychological Attributes?

Studies observing the roots of political knowledge reveal that the “determining factor regarding who knows what about politics is reduced to the psychological rather than the social or political” (Delli Carpini and Keeter 1996, pg. 8). In other words, scholars often assume a static information environment and that any differences between people lies in individuals’ *ability*, *motivation*, and *opportunity* to learn about politics. These concepts are often operationalized at the individual-level. For example, a person’s ability to learn about politics is often measured using the respondent’s education; a person’s motivation to learn about politics is often measured using the respondent’s level of interest in politics; and a person’s opportunity is captured using a person’s level of media consumption.

More recent scholarship on political knowledge attempts to explain why particular groups have higher (or lower) levels of knowledge. For example, women tend to know less about politics, particularly when questions asked are not gender-related (Sanbonmatsu 2003). Men are more likely to guess than women (Mondak and Anderson 2004). Further, men exhibit less proclivity for conflict avoidance in a political world marked by partisan conflict instead of consensus politics (Wolak and McDevitt 2011).

The racial gap in political knowledge (between whites and nonwhites) has been attributed to a differences in resources like time, money, and skills (Prior and Lupia 2008). Further, blacks,

Latinos, and whites experience politics differently, which leads to them answering knowledge questions in different ways (Abrajano 2015). The racial gap in trust of institutions and elected officials who are the focus of questions measuring political knowledge also plays a role in producing varying levels of knowledge (Howell and Fagan 1988). The implication of this research is that people know more or less about politics based on *who* they are and not so much on the information and political environment they are exposed to. Although some scholars argue that these contextual factors matter (Delli Carpini and Keeter 1996), few studies examine this argument (but see Banducci, Giebler, and Kritzinger 2015; Jerit, Barabas, and Bolsen 2006).

A person's political environment likely shapes all of these factors (ability, motivation, opportunity). A person's ability might be influenced by how seriously the state government is dedicated to increasing civic education. A person's motivation could be influenced by intensity of executive and legislative campaigns in a state. A person's opportunity could be influenced by how often politics is covered, the quality of coverage, and the activities of state government. These possibilities are often neglected in work on political knowledge.

The very latest research suggest the roots of political knowledge of state government are partially dependent on the political climate of a state because information becomes readily available when citizens need it to monitor the state government effectively (Lyons, Jaeger, and Wolak 2013). Lyons, Jaeger, and Wolak (2013) look at one kind of knowledge about state politics – correct recollection of people's governor. But the governor is the most identifiable political figure in American politics, save the president (Delli Carpini and Keeter 1996). Would state courts also attract attention to themselves through their own actions? I find that judicial actions regarding executions, gay marriage, and money spent on elections affect overall

ideological knowledge. Whether the court tends to hand down unanimous decisions also has an impact on ideological judicial knowledge.

How Courts Might Shape Public Knowledge of the Judicial Branch

There is significant variation across the American states regarding what state courts are doing and how state courts are structured. Some state high courts laid the legal groundwork for the landmark United States Supreme Court's decision in *Obergefell v. Hodges* (2015) (which legalized same-sex marriage in the entire United States by requiring their state to issue same-sex marriage licenses). Other state high courts review hundreds of appeals from prisoners on death row. Regardless of the outcome, such capital punishment decisions are certain to make the news.

Court decisions, and how these decisions are made affect the opportunities people have to learn about politics. People exposed to more information about the judicial branch tend to know more about it. But not everyone is exposed to their state courts at equal rates. In the paragraphs that follow, I explain why some aspects of court actions and court structure likely shape overall levels of knowledge. The broad theory linking all of the following hypotheses together is that actions taken by the state high court as well as institutional choices, suspected to increase the overall visibility of the state supreme court, do influence the information environment available to citizens. In doing so, people living in such states have higher levels of knowledge about their judicial branch of government because the *opportunities* to learn about the judicial system afforded to citizens are greater in those states.

Executions. The media loves to cover violent crimes because violence fits the description of news stories that sell (Lipschultz and Hilt 2002). Capital crimes are almost always violent in

nature, and capital punishment is the most severe penalty a jury can impose. These cases are often required by law in most states to be reviewed by higher courts (often by direct appeal to the state's highest court) and even those states that do not mandate that the sentence be appealed, effectively all death sentences are reviewed by higher state courts (Liebman, Fagan, and West 2000). Given the intense media coverage of capital punishment sentences and the integral role courts play in either reversing or upholding convictions on appeal, people should learn more about the judicial branch in these times of intense media coverage.

The more prisoners executed, the more the courts are in the news. This should increase overall basic knowledge about the court system in that state but also could send a signal to the public that the court is conservative in nature. Most death penalty sentences are reversed due to error (Lipschultz and Hilt 2002). It is unlikely that in the states that overturn fewer convictions there is simply less error. More realistically, judges are more likely to be conservative and do not want to appear soft on crime (see Brace and Boyea 2008 and Huber and Gordon 2004 for how public opinion influences judges to issue harsher penalties and reverse fewer death penalty convictions in states that elect their judges). People that live in states that execute a greater number of people not only know more about the court, but also are more likely to correctly assess the ideological tenor of court. That is, a state with more executions implies the state courts are more conservative.

Gay Marriage. State high courts were the first to issue decisions on same-sex marriage starting with the Hawaii Supreme Court decision in *Baehr v. Lewin* (1993). The case required a lower court to use the highest level of scrutiny when ruling on the constitutionality of the same-sex marriage bans in the state. This issue quickly became a wedge issue in American elections

(Hillygus and Shields 2008) and was allegedly at the forefront of the culture war (Abramowitz and Saunders 2008). Not only would these stories make the news but often they provoked backlash from the religious right that mobilized into passing constitutional amendments that specifically banned same-sex marriages in the state (Rosenberg 2008). It was the judiciary that brought this topic into the limelight. And in doing so might lead people to know more about the courts in their state.

With one notable exception, courts that issued pro-same sex marriage rulings were the most liberal courts. The exception to the rule was the Iowa Supreme Court, which unanimously required the state of Iowa to begin issuing same-sex marriage licenses in 2009. The median justice on the Iowa court was conservative at the time of the ruling. Otherwise, a pro-same sex marriage ruling should, as a general rule, increase the accuracy of people's assessments of the ideological tenor of their state high court because state courts willing to issue such rulings were, almost unanimously, controlled by liberal judges.

Unanimity. An analysis of media coverage of state high court decisions revealed that the media are more likely to cover contentious, divided decisions than unanimous ones (Vining et al. 2010; Vining and Wilhelm 2010). Courts with high levels of unanimity should be more likely to fly under the public's radar and therefore will be *less* likely to contribute to the public's understanding of the judicial branch.

That is not to say that unanimous decisions are never covered in the media. Unanimity could affect the likelihood of correctly assessing the ideological tenor of the state high court. However, there are theoretical reasons for an effect in either direction. Divided courts, if they are more likely to receive greater news coverage, might also contribute to a better understanding of

the court's ideology. That said, divided courts – especially if they are like the United States Supreme Court – might contribute to confusion about the ideology of the court. A court with half liberal, half conservative justices and a swing vote justice could make proper ideological assessment of the court difficult. On the flip side, unanimity might also signal ideological cohesion. A unanimous court, a court composed of judges on one side of the ideological spectrum, could increase proper assessment of the ideological tenor of the court. Unanimity from the Texas Supreme Court would not be shocking coming from a court composed of nine Republicans just like unanimity from the Vermont Supreme Court could easily signal a court composed of all liberals.

Ideological Disagreement. People are motivated to learn about politics when they have reasons to learn (Delli Carpini and Keeter 1996). People are especially motivated to learn about politics when they feel threatened or anxious by what is happening in politics (G. E. Marcus and MacKuen 1993). People who live in states with a court that issues decisions that go against what one believes or prefers would be more likely to feel those emotions and be more likely to have reason to learn about the courts.

The religious right is more likely to know about liberal court decisions that threaten their deeply held beliefs. Women are more likely to know about court decisions that threaten their right to an abortion. That is not to say people who live in states whose courts share their ideological viewpoint cannot ever accurately assess the court, but such people may be more likely to view that court as moderate as opposed to politically biased in their preferred direction (a supposition I support in later chapters).

Anxiety, induced by living in a state in which you are the political minority not only increases information seeking but *quality* of information as well (Valentino et al. 2008). Individuals will be more likely to correctly assess the ideological tenor of their state high court when individuals perceive themselves most negatively affected by court decisions. This suggests Democrats will be more likely to know if they are living in state with a conservative state supreme court while Republicans will be more likely to know if they are living in state with a liberal state supreme court. This is because such courts are more likely to issue displeasing rulings that may create a hostile political atmosphere.

Money in Judicial Elections. Perhaps the most notable (and certainly the most studied) institutional variation in state courts is how judges are selected. Judges to states' highest courts are elected using partisan elections, nonpartisan elections, merit selection, or appointment schemes. Elected states should make their state courts more visible than non-elected states. Also, people who live in states that hold partisan judicial elections should most easily be able to assess the ideological tenor of their state high court. There are two problems that occur when operationalizing this institutional variation using the formal selection mechanism.

First, there are two states that have hybrid systems (Ohio and Michigan), selecting their candidates using partisan methods and then removing that partisan cue in the general election. It has been suggested that these states more closely resemble partisan elections than their formal nonpartisan method (Brandenburg and Caufield 2009).

Second, some states that elect their judges using partisan elections initially do not elect their judges in the same way in all future races (like Illinois and New Mexico). And then finally, some nonpartisan states have races that are so contentious and so partisan in their nature that

their classification as nonpartisan is dubious. To avoid these debates and criticisms, the clearest indicator of visibility of a judicial branch is how much money is spent in the elections in that state.

States that hold uncompetitive elections should be grouped in the same category as states that appoint their judges. Although campaigns exist only in states that elect judges, not all states that elect judges experience those campaigns. According to Bonneau and Hall (2009), increasing campaign expenditures leads to less ballot roll off. Moreover, the first study examining vote choice in these elections finds evidence that partisanship plays a powerful role in vote choice (Bonneau and Cann 2015a, 2015b). Therefore, I expect greater spending in states leads to higher levels of knowledge both of the judicial system and of the ideological tenor of the state high court.

Professionalization of State Courts. People pay less attention to more professionalized state legislatures (Squire 1993). This is possibly because the presence of professionalized legislatures is correlated with longer sessions. When sessions last for longer periods of time, this makes legislative business a continuous news story competing for people's attention (Squire 1993, pgs. 483-484). Squire (2008) has constructed a measure that includes the salaries, number of staff and most importantly, level of discretion each state high court has in controlling its docket. This measure has been shown to significantly increase both incumbent vote shares in both nonpartisan and partisan judicial elections (Hall 2014, 2015) as well as ballot roll off (Hall 2015). If incumbent vote share and ballot roll off increase in states with more professionalized courts, then perhaps people are receiving *less* information about professionalized courts. Moreover, the courts with greater control over their dockets, higher paid judges, and more staff

may be more strategic in the cases they accept; courts that have greater control over which cases they hear should be able to take fewer controversial cases or be able to delay deciding controversial cases until a more favorable time. This measure is scaled relative to the professionalization of the U.S. Supreme Court, considered the least visible and least politically divisive branch of the national government (Hibbing and Theiss-Morse 1995).

Alternatively, professionalization might increase knowledge of state courts. Professionalized courts are more likely to decide “have versus have not” disputes and favor the underdog in such disputes (Brace and Hall 2001). These disputes might generate additional media attention and instigate legislative responses against them (Hume 2011). Professionalized state supreme courts are also more likely to win when they go to the Supreme Court (Owens and Wohlfarth 2014). Professionalized state courts produce more readable opinions (Nelson 2013) and are more likely to be cited (Caldeira 1985; Hinkle and Nelson 2016). Combined, these factors suggest state court professionalization might increase knowledge of both the state court system and court ideological tenor because these more prestigious institutions often produce groundbreaking decisions in new areas of law.

Transparency. Researchers at the Center for Public Integrity have recently constructed a measure of judicial transparency and accountability which is a composite score based on dozens of questions related to how accountable judges are for their actions. This measure is not a redundant measure of selection mechanism but rather contains scores for whether state-level judges give reasons for their decisions in practice or are banned from using state resources for personal purpose. The transparency of whatever selection mechanism the state chooses, regulations governing conflicts of interest, the effectiveness of those regulations, and the

transparency of the state's asset disclosure requirements as it relates to the judicial branch such that the public can check to see if judges would experience a conflict of interest in deciding certain cases are all items that are factored into this composite measure of transparency.

State Political Climate and Individual-level Characteristics

Lyons, Jaeger, and Wolak (2013) uncovered numerous state contextual factors that influenced correct identification of the sitting governor in one's state. It is plausible that some of these factors also influence both knowledge of the state court system and the ideology of the state supreme court. I discuss these controls below.

Divided Government. A divided state government might be more exciting and increase knowledge of overall state politics but it could also make correct ideological assessment of the state supreme court more difficult. If the executive and at least one of the state legislative branches are controlled by different parties, it is reasonable to suspect the state supreme court would contain a mix of liberal and conservative justices. Thus, which ideology controls the court might be more difficult for people to assess.

Ideologically Extreme States. Along the same lines as the logic behind controlling for divided government, I contend that people living in places like Vermont and Alabama *know* they are living in ideologically extreme states. To that end, they might reasonably guess that courts in those states are quite liberal and conservative, respectively.

Reporters. The decline of full-time statehouse reporters is a well-documented phenomenon, and these reporters could drastically influence the information people have about the working of their state government, including the courts (Mitchell et al. 2014). More reporters covering state politics, relative to population size, should increase knowledge of the state court system and may even help people produce more accurate assessments of their state supreme court's ideological leanings.

Other Controls. I control for education, interest in politics (or attention to state politics, depending on the survey), personal experience with the state court system in one survey and whether a person reads a newspaper for the other to capture a person's inherent ability, motivation and opportunity to learn about politics at the individual-level. I also control for the age, gender, and race/ethnicity of the respondent. These factors are related to knowledge of national politics (Delli Carpini and Keeter 1996) and some of these have been found to be related to knowledge of state politics as well (Lyons, Jaeger, and Wolak 2013).

Data and Methods

To test the posited hypotheses above, I use survey questions from the 2009 Inter-Branch Relations Survey conducted for the National Center for State Courts and a post-election question from the 2014 Cooperative Congressional Elections Study. From the 2009 survey, overall awareness of the state court system is measured using a mean index composed of the following four questions:

1. As far as you know, does your state have its own constitution, or not?
2. Can you name any of the three branches of state government? (What are their names?)

3. As far as you know, are the judges on your state supreme court elected by the voters, or not?
4. As far as you know, can your state supreme court declare an act of the state legislature unconstitutional, or not?

Correct answers were coded as 1. All other respondents were coded as 0.⁷ These questions tap very basic knowledge about state judicial systems with only one question being specific to the state the person lives in. A knowledge scale quite similar to this one was used in the most comprehensive analysis of state court public opinion to date (Cann and Yates 2016).⁸

Correct perception of the state supreme court's ideology was measured using a combination of a survey question from a unique module on the 2014 Cooperative Congressional Election Study and the median justice's campaign finance score (Bonica and Woodruff 2015).⁹ The CCES question asked respondents the following: "Thinking about the [respondent's court of last resort] and the decisions it has been making lately, where would you place your state's highest court on the scale below? The scale ranged from 0 to 100 with 0 labeled as "Very

⁷ The correct answers to questions 1, 3, and 4 are straightforward [yes, named the judicial branch, and yes]. The correct answer to question 2 is not as straightforward for people living in states that select their judges using merit selection. On the one hand, judges in those states are technically accountable to the public through retention elections. On the other hand, these judges are not initially "elected by the voters" and are never really elected but rather retained by the voters. While a reasonable argument can be made that either answer choice could be viewed as correct, I coded people living in those states who responded with "No state supreme court judges are not elected" as being correct. I made this coding choice because it makes the question have the highest difficulty based on exploratory IRT analysis, and education most strongly predicted the mean index using this coding of the variable in bivariate regression analyses.

⁸ Cann and Yates (2016) used a three question scale asking respondents (1) "Does your state supreme court exercise the power of judicial review (the ability to overturn an act of the state legislature?)" (2) "Does your state have its own constitution" and (3) "How many justices serve on your state's highest court?" The last question is not asked in this survey nor would I suspect many (if any) people to know the answer to that question.

⁹ Using a complete list of all of the justices sitting on the state supreme court before the November election, I used the 2012 campaign finance scores for all justices still on their courts in 2014. For the newer justices, I first used the campaign finance score of the justices themselves if they competed in a lower appellate court election or any other state election. When not available, I used the campaign finance score of the appointing governor, and finally, for a few justices, I used the recently constructed judicial ideology measures by Windett, Harden, and Hall (2015). Every single justice has an ideology score to ensure the highest degree of validity in determining the ideology of the median justice.

Liberal” and 100 labeled as “Very Conservative.” The median justice’s ideology ranged from extremely liberal -1.40 (Vermont) to extremely conservative 1.41 (North Dakota). If the respondent correctly identified the ideological leanings of their state high court, they were coded as 1. All other respondents were coded as 0.¹⁰

For the 2009 survey, I run a multilevel linear model with a random intercept for the respondent’s state; for the 2014 survey, I run a multilevel logit model with a random intercept for the respondent’s state. Survey weights are used in the estimation of all statistics. Tables 1 and 2 contain a brief description of each variable including coding choices, sources for the data and appropriate descriptive statistics. All variables were subsequently recoded to have a range from 0 to 1; if the variable already had a theoretical range of 0 to 1, no additional recoding was done.

¹⁰ Respondents could be considered correct in one of three ways: (1) they believe their state supreme court is liberal (below 50) and their court is liberal (below 0). (2) they believe their state supreme court is conservative (above 50) and their court is conservative (above 0). (3) they believe their state supreme court is moderate (33 to 67) and the court is moderate (-.5 to .5).

Table 1: Description of Variables (2009 NCSC Survey)

	Mean/ Median	Standard Deviation	Coding Procedure	Data Source
<i>What Courts are Doing</i>				
Executions	5.02 0	15.966	Count of the number of executions in the five years before the survey (2004 through 2008)	Bureau of Justice Statistics <i>Prisoners Executed</i>
Gay Marriage	.12 0	0.328	High profile state supreme court decisions favorable to legalizing same-sex marriage or civil unions (see Appendix for list of cases used)	Eskridge and Hunter's <i>Sexuality, Gender, and the Law</i> (2014 Supplement)
Ideological Disagreement	0.833	0.683	Three point scale based on the respondent's party id and the median justice's Cfscore	Bonica and Woodruff (2015) & The American Bench
Unanimity	.802 .85	0.155	Average proportion unanimous decisions by the state supreme court in the five years before the survey (2004 through 2008)	Hall and Windett (2013)
<i>How Courts are Structured</i>				
Money	3.22 2.5	3.290	Log of the total amount of money spent in judicial elections from 2000 through 2009	Brennan Center <i>New Politics of Judicial Elections 2000-2009</i>
Professionalization	.579 .58	0.150	Measure of professionalization which includes the salary, docket score, and staff	Squire (2008)
Transparency	67.603 69.715	10.229	Judicial integrity score from 2012; a measure of how transparent the judicial processes are	Center for Public Integrity <i>State Integrity Investigation</i>
<i>State Political Climate</i>				
Divided Government	.469 0	0.504	Indicates whether the governor and at least one chamber of the state legislature are controlled by different parties	NCSL <i>2009 State and Legislative Partisan Composition</i>
Ideologically Extreme State	.399 .367	0.300	Folded measure of Berry et al.'s (1998) of state ideology for 2008 (rescaled to range from 0 to 1)	Citizen and Government Ideology Data, 1960-2013
Reporters	.174 .14	0.133	Number of full time statehouse reporters per 100,000 residents (based on the 2010 Census)	American Journalism Review <i>Statehouse Exodus</i>
<i>Ability</i>				
Education	4.203	1.731	7-point scale ranging from less than 8th grade to post graduate	NCSC Survey
<i>Motivation</i>				
Political Interest/ Follows State Politics	2.164	0.801	Four point scale asking respondents how closely they follow state politics ranging from "Not at All Closely" to "Very Closely"	NCSC Survey
<i>Opportunity</i>				
Experience with Courts	0.566	0.496	Dichotomous measure of whether respondents had any direct experience, contact, or involvement with courts in their state	NCSC Survey
Reads a Newspaper			Not Applicable for the 2009 NCSC Survey	
<i>Demographics</i>				
Age	46.239	17.981	Ranges from 18 to 94	NCSC Survey
Female	0.514	0.5		NCSC Survey
Nonwhite	0.3	0.459	Dichotomous measure of race/ethnicity indicating whether a respondent was nonwhite (including Hispanics, Black, Asian, and Other)	NCSC Survey

Descriptive statistics for state-level variables were calculated using the state-level dataset that includes all of the fifty states. For individual-level variables, descriptive statistics were calculated using survey weights.

Table 2: Description of Variables 2014 CCES Survey

	Mean/ Median	Standard Deviation	Coding Procedure	Data Source
<i>What Courts are Doing</i>				
Executions	4.1 0	11.242	Count of the number of executions in the five years before the survey (2010 through 2014)	Bureau of Justice Statistics <i>Prisoners Executed</i>
Gay Marriage	.16 0	0.370	High profile state supreme court decisions favorable to legalizing same-sex marriage or civil unions (see Appendix for list of cases)	Esckridge and Hunter's <i>Sexuality, Gender, and the Law</i> (2014 Supplement)
Ideological Disagreement	0.297	0.213	Absolute difference between a seven point scaled ideology measure (rescaled from 0 to 1) and the median justice's Cfscore (again, rescaled from 0 to 1) with 1 indicating very conservative for both measures	Bonica and Woodruff (2015) & The American Bench
Unanimity	.806 .845	0.146	Proportion unanimous decisions by the state supreme court in 2010, the latest available date	Hall and Windett (2013)
<i>How Courts are Structured</i>				
Money	2.166 0	2.847	Log of the total amount of money spent in judicial elections from 2013 through 2014	Brennan Center <i>New Politics of Judicial Elections 2013-2014</i>
Professionalization	.579 .58	0.150	Measure of professionalization which includes the salary, docket score, and staff	Squire (2008)
Transparency	67.603 69.715	10.229	Judicial integrity score from 2012; a measure of how transparent the judicial processes are	Center for Public Integrity <i>State Integrity Investigation</i>
<i>State Political Climate</i>				
Divided Government	.224 0	0.422	Indicates whether the governor and at least one chamber of the state legislature are controlled by different parties	NCSL <i>2014 State and Legislative Partisan Composition</i>
Ideologically Extreme State	.392 .327	0.270	Folded measure of Berry et al.'s (1998) of state ideology for 2013 (rescaled to range from 0 to 1)	Citizen and Government Ideology Data, 1960-2013
Reporters	.890 .6	0.743	Number of full time statehouse reporters per 100,000 residents (based on the 2010 Census)	Pew Research Center <i>Statehouse Reporters in the United States 2014</i>
<i>Ability</i>				
Education	3.370	1.482	6-point scale ranging from no high school diploma to post graduate	CCES 2014
<i>Motivation</i>				
Political Interest/ Follows State Politics	2.288	0.895	Four point scale asking respondents how often they follow politics ranging from "Hardly at All" to "Most of the Time"	CCES 2014
<i>Opportunity</i>				
Experience with Courts			Not Applicable for the 2014 CCES	
Reads a Newspaper	0.504	0.500	Dichotomous measure indicating if the respondent reads a newspaper	CCES 2014
<i>Demographics</i>				
Age	49.203	16.881	Ranges from 18 to 91	CCES 2014
Female	0.533	0.499		CCES 2014
Nonwhite	0.237	0.426	Dichotomous measure of race/ethnicity indicating whether a respondent was nonwhite (including Hispanics, Black, Asian, and Other)	CCES 2014

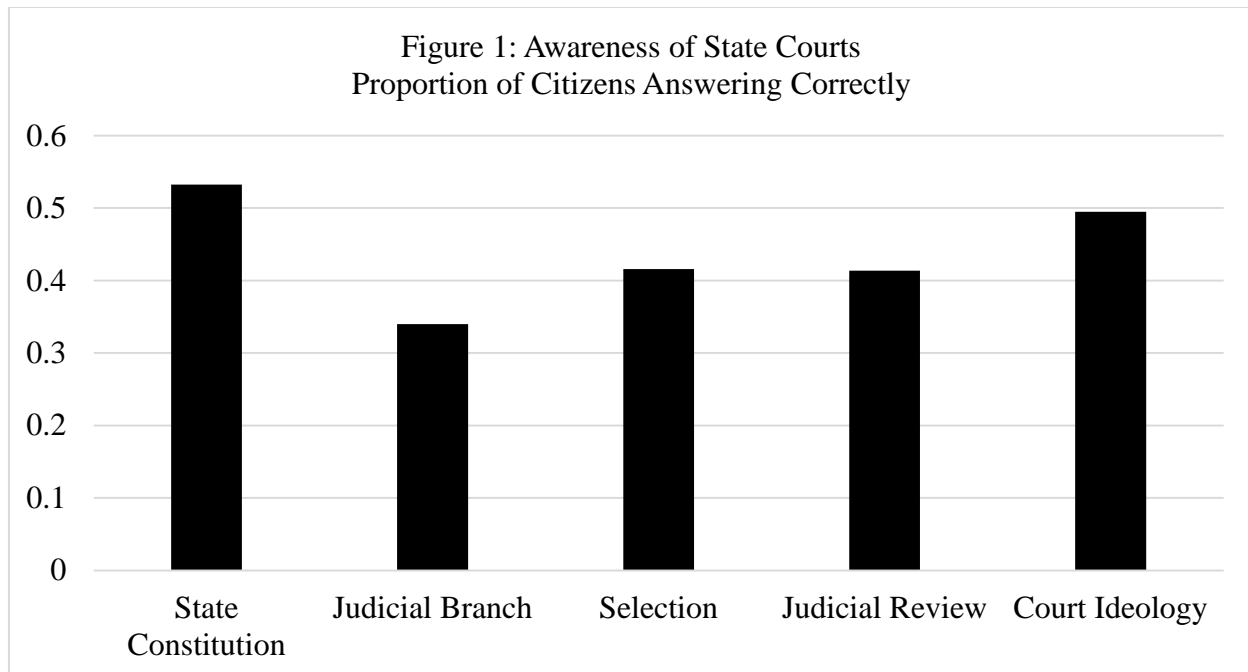
Descriptive statistics for state-level variables were calculated using the state-level dataset that includes all of the fifty states. For individual-level variables, descriptive statistics were calculated using survey weights.

Results

Part I: How Much Do People Know about their State Courts?

Figure 1 displays the proportion of people who know their state has a constitution (53%), could name the judicial branch of state government (33%), correctly identified how judges are selected in their state (41%), knew their state supreme court could strike down laws as being unconstitutional (41%), and could correctly assess the ideological balance of their state supreme court (49%).

While perhaps lower than an ideal democratic society should strive for, these numbers are in line with people's knowledge of the Supreme Court – which is certainly the most high-profile court in the land (Gibson and Caldeira 2009b). Based on a 2005 survey, slightly higher percentages know that supreme court justices are appointed (65%), that justices serve a life term (60%) and that the Court has the “last say” on the Constitution (56%) (Gibson and Caldeira 2009b). People are not completely ignorant of their state courts and certainly not significantly less ignorant than they are about politics generally (Delli Carpini and Keeter 1996).



Part II: Determinants of State Court System Knowledge

In predicting knowledge, the overarching hypothesis of this chapter finds significant support: people's level of knowledge about their state courts varies in response to changes in their information environment. Specifically, people learn more or less about state courts based on what courts are doing and how courts are structured. Table 3 presents results from a multilevel linear regression model predicting the respondent's mean knowledge of state court structure using the first four knowledge questions from Figure 1. People's civics-based knowledge of court structure is partially a function of what courts are doing. Executions bring the court into the spotlight, but this is the only aspect of what courts are doing that have an impact on understanding of the state's judicial system.

Table 3: Determinants of State Court System Knowledge	
	Model 1
<i>What Courts are Doing</i>	
Executions	.142* (.022)
Gay Marriage	.026 (.030)
Ideological Disagreement	.008 (.019)
Unanimity	-.067† (.036)
<i>How Courts are Structured</i>	
Money	.063* (.026)
Professionalization	-.104† (.061)
Transparency	.070* (.035)
<i>State Political Climate</i>	
Divided Government	.029 (.019)
Ideologically Extreme State	-.033 (.037)
Reporters	.373* (.139)
<i>Ability</i>	
Education	.331* (.031)
<i>Motivation</i>	
Political Interest/ Follows State Politics	.130* (.030)
<i>Opportunity</i>	
Experience with Courts	.036* (.016)
Reads a Newspaper	--
<i>Demographics</i>	
Age	-.015 (.033)
Female	-.100* (.017)
Nonwhite	-.098* (.021)
Intercept	.201* (.077)
<i>Variance</i>	
State	.000 (.000)
<i>N</i> (Number of states)	1124 (45)
Multilevel Regression Estimates, Standard Errors in Parentheses.	
† $p < .10$; * $p < .05$	

Court structure seems to influence how much people know about their state courts. Increasing campaign expenditures in judicial elections increases the visibility of courts as does the measure of transparency. The overall state political climate, with one important exception, appears to not affect people's overall knowledge of the state court system. People are no more likely to know about their state courts when living in a state with a divided government compared to a unified state government, and there is no evidence that ideologically extreme states shape public knowledge of the judicial branch. The number of statehouse reporters (per 100,000 residents) does significantly and positively contribute to knowledge of the judicial branch. The media has long been known to shape how much and what people know about the world around them. When it comes to state government, this common wisdom appears to be accurate.

The traditional measures that predict political knowledge also predict knowledge of the state court system. The effect of education is positive and statistically significant on knowledge. How often people claim to follow state politics and having some direct experience with courts in the state also contribute to this type of knowledge. Two demographic controls are statistically significant as well. Women and nonwhite individuals know less about state courts compared to their male and white counterparts – even after controlling for other influential factors.

In Table 4, relative strength of the court knowledge determinants is presented. Predicted values of court knowledge were calculated for each variable at its minimum and maximum values. The difference between the two are calculated to compare effect sizes. Bolded differences are statistically significant and italicized differences were statistically significant at the .10 level. Not surprisingly, people's civics-based knowledge about the court system in one's state is heavily dependent on the level of education one receives. An average person (otherwise)

with less than an eighth grade education would be predicted to correctly answer one of the four questions, while an average person with a postgraduate education would be predicted to get at least two of the questions correct (.58). State politics reporters also heavily swing the predicted values of knowledge. Moving from having no statehouse reporters to nearly one (.8) for every 100,000 residents in the state leads to a .3 *difference* in knowledge of state courts on a 0 to 1 scale.

The effect sizes of the other variables, particularly those associated with what courts are doing and how courts are structured are more modest. Number of executions, though, is especially worthy of note, as its effect size is roughly the same as the effect of political interest! People who follow state news should certainly know more about all aspects of politics than those who do not care to follow the political world, but controlling for news consumption, people that are exposed to more executions learn about the courts anyway. And that goes for the statistically significant institutional variables as well: controlling for levels of education and how much people follow politics, people seem to be exposed to information about their state courts *whether they follow state politics or not*.

Table 4: Predicted Values of State Court System Knowledge			
	x at Minimum	x at Maximum	Difference in $E(Y)$
<i>What Courts are Doing</i>			
Executions	0.414	0.557	0.143
Gay Marriage	0.425	0.451	0.026
Unanimity	0.460	0.414	-0.046
Ideological Disagreement	0.427	0.434	0.007
<i>How Courts are Structured</i>			
Money	0.397	0.461	0.064
Professionalization	0.466	0.397	-0.069
Transparency	0.389	0.459	0.070
<i>State Political Climate</i>			
Divided Government	0.416	0.444	0.028
Ideologically Extreme State	0.440	0.407	-0.033
Reporters	0.387	0.685	0.298
<i>Means</i>			
Education	0.252	0.583	0.331
<i>Motive</i>			
Follows State News	0.336	0.466	0.130
<i>Opportunity</i>			
Court Experience	0.409	0.445	0.036
<i>Demographics</i>			
Age	0.435	0.420	-0.015
Female	0.482	0.382	-0.100
Nonwhite	0.458	0.360	-0.098
Predicted values calculated at the specified value of x , holding all other variables at their means. Bolded differences are statistically significant at the .05 level; <i>Italicized</i> differences are statistically significant at the .10 level (see Model 1).			

Part III: Determinants of State Supreme Court Ideological Knowledge

Table 5 presents the results of a multilevel logit regression. Coefficients here may be interpreted as logged-odds. My theory suggests that people will know more about courts when courts do things that make them more visible. Given the data, my theory has *strong* support in this model. Here, more visible courts help people predict court ideology with greater accuracy.

States that execute more people as well as state supreme courts that issued favorable same-sex marriage rulings before the survey positively contribute to accurate assessment of the high court's ideology. Those actions send clear signals that the judiciary of that state is conservative and liberal, respectively. Additionally, ideologically disagreeable courts are more likely to catch the attention of the public. This finding provides additional credibility to the theory that people know more when they are anxious about the political environment in which they live.

Finally, unanimity *increases* correct perceptions of ideology, somewhat of a shocking find. Perhaps this observation has more to do with divided courts causing confusion about the ideological leanings rather than unanimous courts signaling ideological cohesion. I cannot sort out those possibilities here.

Less consequential to knowing state court ideology is its structure. There is one important exception: money. Money in judicial politics does indeed increase knowledge of the court ideology lending additional support for the research that suggests people are more than capable of voting "correctly" in judicial elections (see Bonneau and Hall 2009, for example).

State politics matters for correct ideological assessment of the state's highest court. Although the coefficient on divided government fails to reach statistical significance, my measure of state ideological extremity certainly does. People who live in more ideologically extreme states (either liberal or conservative) are more likely to correctly assess the high court's ideological leanings. Conversely, more ideologically mixed (moderate) states appear to create confusion regarding where the high court stands.

One unexpected finding is that the number of full time statehouse reporters per 100,000 people is associated with significantly *less* knowledge of the court's ideology. It could be the case that statehouse reporters are more likely to present courts (and their decisions) in a more

venerable, legalistic light. That is, while people learn more about the court system in general, these reporters actually help contribute to the myth of legality. Certainly a more detailed analysis of how assigned court reporters cover the judicial branch compared to reporters who have less expertise reporting on state politics is warranted in future research. Additional research also may shed light on why "to know courts are to love them."

Table 5: Determinants of State Court Ideology Knowledge	
	Model 2
<i>What Courts are Doing</i>	
Executions	.665* (.215)
Gay Marriage	.837* (.365)
Ideological Disagreement	1.121* (.331)
Unanimity	1.397* (.534)
<i>How Courts are Structured</i>	
Money	.446* (.171)
Professionalization	1.066 (.772)
Transparency	-.518 (.371)
<i>State Political Climate</i>	
Divided Government	-.179 (.279)
Ideologically Extreme State	.878* (.437)
Reporters	-1.960* (.909)
<i>Ability</i>	
Education	.081 (.273)
<i>Motivation</i>	
Political Interest/ Follows State Politics	1.246* (.360)
<i>Opportunity</i>	
Experience with Courts	--
Reads a Newspaper	.264 (.168)
<i>Demographics</i>	
Age	-.063 (.389)
Female	-.222 (.196)
Nonwhite	-.163 (.217)
Intercept	-3.189* (.943)
<i>Variance</i>	
State	.015 (.071)
<i>N</i> (Number of states)	1198 (47)
Multilevel Logit Estimates, Standard Errors in Parentheses. † p < .10; * p < .05	

Few individual-level factors that predict knowledge of the state court system also predict knowledge of state high court ideology. Only interest in politics (broadly) is a significant predictor in the model. Education, age, gender, and race have no effect on one's knowledge of the current court's ideological leanings. These findings suggest that perhaps there are different kinds of knowledge about state politics – knowledge in which you can rely on civic education to answer correctly and knowledge that is very much dependent on the information environment in which you live – that is, knowledge of the state court ideology. This makes sense. Knowledge of the state judicial system can occur at any point of time. Knowledge of court ideology requires more than just civics education. It requires having ideological information coming from the court itself.

Table 6 contains the predicted probabilities of knowing the ideological leanings of the state high court. One thing to notice is that in moving from the minimum value of each variable to the maximum, holding all other variables at their means, often changes the probability of knowing the state high court's ideology from *less* than fifty percent to *greater* than fifty percent. The extent to which each variable is capable of shifting the probability is presented in the last column.

Table 6: Predicted Probabilities of People Correctly Identifying State High Court Ideology			
	x at Minimum	x at Maximum	Difference in $\Pr(Y)$
<i>What Courts are Doing</i>			
Executions	0.495	0.653	0.158
Gay Marriage	0.471	0.673	0.202
Unanimity	0.373	0.593	0.220
Ideological Disagreement	0.431	0.699	0.268
<i>How Courts are Structured</i>			
Money	0.467	0.578	0.111
Professionalization	0.399	0.597	0.198
Transparency	0.588	0.460	-0.128
<i>State Political Climate</i>			
Divided Government	0.520	0.476	-0.044
Ideologically Extreme State	0.452	0.665	0.213
Reporters	0.559	0.151	-0.408
<i>Means</i>			
Education	0.504	0.524	0.020
<i>Motive</i>			
Political Interest	0.287	0.583	0.296
<i>Opportunity</i>			
Reads a Newspaper	0.480	0.546	0.066
<i>Demographics</i>			
Age	0.521	0.505	-0.016
Female	0.543	0.488	-0.055
Nonwhite	0.523	0.482	-0.041
Predicted probabilities calculated at the specified value of x , holding all other variables at their means. Bolded differences are statistically significant (see Model 2).			

Nearly every concept used to capture what the state high court is doing leads to at least a *twenty* percentage point swing in knowing court ideology. This effect is comparable to the effect for political interest when moving from having no interest at all to being very interested. The effects of state court actions are also comparable to living in an ideologically homogenous state. Again, the number of court reporters has a significant effect with a difference in over forty percentage points in probability moving from a state that has none to a state that has over three

per 100,000 people. However, as noted above, this effect is negative, meaning that the more reporters there are in the state (relative to population size), the less likely people are to know the ideological balance of their state high court. Considering that in both models reporters are important but in the exact opposite direction, a more thorough analysis is certainly warranted as to how these reporters cover court decisions and whether reporters are doing what I suspect they are doing: providing more information about the court system without painting the courts in an overly ideological light.

Discussion

The central contention of this dissertation is that *people evaluate courts based on information about what courts are doing*. A necessary condition of my argument is that people be at least moderately aware of their state courts. I have shown that here. The print media appear to cover state supreme courts quite frequently. People's knowledge of state courts is low but only slightly lower than their knowledge of the Supreme Court. The public knows more about state courts than scholars have previously given them credit for. This has implications for our understanding of how people acquire information in their state environments.

This chapter, while providing the necessary support for the argument that *some people* know about their state courts, also contributes to the political knowledge literature at large. First, I provide overwhelming evidence that people's levels of knowledge about state politics – in this case the courts – is partially dependent on what state courts do. State courts that send stronger signals about what they are doing increase their visibility and hence people's overall awareness of them. This may explain the significant variability of knowledge of state courts across the various states.

Moreover, institutional variation matters. People living in states with transparent courts and with elections that draw significant amounts of campaign expenditures know more about that system while more professionalized courts shroud the courts in mystery. Only money, however, helps people make better inferences about court ideology. Simply put, what courts are doing and how courts are structured (and the consequences of having a particular structure) shape the information environment people are exposed to and – even after controlling for individuals’ levels of education and interest in politics – information environments clearly matter for how much people know about the judicial system for the state in which they live. People in these states have greater opportunity to learn about their state courts, and by all indications, are certainly doing so.

The findings in the chapter also present an interesting puzzle. ‘To know courts is to love them’ neatly summarizes a consistent finding in studies of public attitudes toward the judicial branch of government: people who know more about courts will express more positive feelings toward them (Caldeira and Gibson 1992; Casey 1974, 197; Gibson and Caldeira 2009b; Gibson, Caldeira, and Baird 1998; Kessel 1966). The implication of my findings is that court actions and institutional designs that increase the visibility of courts would not only increase public awareness of the branch but also improve its legitimacy. There is some support for this argument within studies of judicial campaigns and their impact on the legitimacy of state courts (Gibson 2012).

But the findings here suggest that not all knowledge might be “legitimacy enhancing” knowledge, and that, in fact, factors that predict correct ideological placement of a state high court might have unexpected consequences for legitimacy. Knowing that a court is liberal or

conservative might be the exact fuel necessary to mire court legitimacy in a partisanship framework. I explore this possibility in the next chapter.

But beyond that, it appears that the sources of court structure are not entirely the same as the sources of knowledge about court ideology. For example, education, political interest, the number of state reporters, the actual structure of the court (along with differences in demographics) predict knowledge of court structure while knowledge of state ideology is far more dependent on what courts are doing. Given that people are paying attention, this justifies a look into how the media are covering state courts. The strange finding that the number of reporters who report on state courts leads to a decrease in the ability to identify the ideology of the state court merits further consideration. Moreover, with additional information about media coverage, we could investigate which forms of knowledge or awareness enhance legitimacy and which ones do not.

These findings help support the findings in the rest of this dissertation. Some may criticize the finding that there is an impact of judicial actions on perceptions, because they say it relies on the dubious assumption that people are paying attention to the state judicial system. These findings show that indeed, they are. This also helps defend the external validity of the last empirical chapter, which contains a survey experiment that asks people to read a fake newspaper story about a state supreme court. The vignette in the experiment has ideological information; and more than two-thirds of people noticed whether the court in the vignette was liberal or conservative. Less than that can correctly identify their state supreme court's ideological leanings in real life. But the finding that people know more about courts when they are doing newsworthy things in this chapter suggests that the forthcoming experiment has a high degree of realism.

Chapter III: Public Perceptions of State Court Impartiality in an Era of Polarized Politics

Does partisanship influence how people evaluate their judiciaries? For people who identify with a political party, this affiliation is known to have a “powerful and pervasive influence on perceptions of political events” (Bartels 2002, 120). Simply put, partisans see the political world through a biased lens, evaluating their co-partisan politicians more favorably than those politicians in the opposition party (Campbell et al. 1960). It could even be argued that the effect of party identification on public attitudes toward political objects has strengthened over time, as people’s partisan attachments became increasingly linked to their political ideology (Levendusky 2009).

We expect partisan preferences to influence people’s evaluations of the executive and legislative branches of government. After all, those officials are beholden to the people. But in a society deeply devoted to the rule of law, we might hope partisanship has little to do with how people see their judicial branch of government. Courts are thought to make nonpartisan decisions and this belief may be necessary for widespread public support (Casey 1974). Courts need widespread public support in order to have their decisions obeyed by the public (Tyler 1990; Tyler et al. 1997), and courts’ ability to effectively exercise the power of judicial review may be indirectly linked to public support (Clark 2009). It is arguably the responsibility of courts to stand up to a public that might want to take away the rights and liberties of unpopular minorities. Courts whose support depends on co-partisans (often in the majority) may have difficulty not only maintaining the rule of law but also providing legal protections for minority rights against the specter of majority tyranny.

Past studies find no substantial connection between partisanship and how people evaluate their courts (for a review, see Gibson and Nelson (2014b); cf. Bartels and Johnston (2013)). This

conclusion is drawn from studies of U.S. Supreme Court legitimacy, but I argue that the Supreme Court is an outlier among high appellate courts. The Supreme Court is ideologically balanced in its decision-making, issuing roughly fifty percent liberal and fifty percent conservative decisions in any given term (Bartels and Johnston 2013). Given this balance, it is no surprise that Democrats and Republicans tend to grant the Supreme Court legitimacy at relatively equal rates. The Court is just not sending strong partisan or ideological cues. And to the extent there are deviations, few are likely attentive enough to notice (Delli Carpini and Keeter 1996).

I argue that under different conditions, people will use party to evaluate. People need to have *high levels of awareness* of courts as well as distinct *partisan cues* from the court in order for party identification to be a significant predictor of support for courts. The way courts are structured, and perhaps even the judges that sit on them, might make the task of acquiring the party or ideological leanings of courts quite difficult. But just because the task of picking up on courts' partisan cues is often difficult does not mean that all people are incapable of doing so. In fact, as partisan battles for control of state courts rage across the nation, people might be very aware of which party (and to what extent) controls the high court (Cassidy 2016). And when faced with clear partisan cues coming from a court, a public that tends to use heuristics to evaluate politics in general should revert to using their most trusted heuristic to evaluate courts as well – and that is partisanship.

To tease out the relationship between party identification and people's evaluations of courts, I use a 2006 survey from the Annenberg Public Policy Center that contains questions about how people perceive their state courts. By using a survey that asks about state courts, I am able to capitalize on the variability in state high court ideology to gain leverage on the question of to what extent partisanship plays a role in how people evaluate courts more generally. Some

state courts, because their ideology is so heavily skewed in one direction, leave little for the public to interpret. The Texas Supreme Court, for example, is composed of nine conservative Republican justices and consistently issue decisions that reflect that ideological viewpoint. And until recently, the New Mexico Supreme Court was composed of five liberal Democrats. In states like those, differences between Democrats and Republicans in how they view their courts are quite stark.

In what follows, I begin by highlighting the existing narratives that explain both why we would expect and tend to observe no relationship between party identification and support for courts. The existing scholarship has a common theme: people evaluate courts *differently* than the other branches of government. I then explain why I believe the current scholarship may have failed to discover a strong connection between partisanship and how people see their courts. My argument is that a relatively exclusive scholarly focus on the Supreme Court may be masking any potential evaluations based on partisanship, simply because that court is relatively ideologically balanced. After, I provide a detailed explanation of my central theoretical argument that the public will evaluate courts using partisanship when individuals are capable of picking up on the partisan cues coming from courts, and that differences between partisans should emerge only when courts acts in a clearly partisan manner. I then describe my data and measures, test the hypotheses that emerge from my theory, discuss the results, and conclude.

The Role of Partisanship in Attitudes Toward Courts

Party identification has been called the “unmoved mover” of American politics (Campbell et al. 1960). It is the chief determinant of a person’s vote choice; it informs people’s attitudes on salient issues; and it structures the way we process and accept new information

(Bartels 2002; Taber and Lodge 2006). In other words, “identification with a party raises a perceptual screen through which the individual tends to see what is favorable to his partisan orientation” (Campbell et al. 1960, 133). Scholars have found people evaluate the president (Burden and Hillygus 2009; Jacobson 2007), congressional candidates (Jacobson 2013), and even Congress as an institution (Bond and Fleisher 2000; Kimball 2005) significantly more favorably when of (or controlled by) the same party. Even approval of governors is dependent on whether individuals are co-partisans, although to a lesser degree than the president (Jacobson 2006). In fact, any issue that becomes politicized could generate differences in viewpoints along party lines (Zaller 1992).

The centrality of partisanship in American political life raises a puzzling question for scholars of the courts. If partisanship is so fundamental to the way people understand the political world, then why has partisanship not been a central concept for understanding how people evaluate the courts? In fact, for scholars studying public opinion toward the United States Supreme Court, the conventional wisdom is precisely the *opposite*: partisanship not does explain any meaningful variation in support for the Court at all (Caldeira and Gibson 1992; Gibson 2007; Gibson and Nelson 2014a).¹¹

Why does partisanship, *at best*, weakly predict support for the Supreme Court when it meaningfully predicts support for all other actors and institutions in American politics? Perhaps people see courts as inherently different than the other branches of government. Courts could

¹¹ In challenging these findings, (B. L. Bartels and Johnston 2013) argue that *subjective* ideological disagreement decreases support for courts. People who perceive the Court as making decisions at odds with their ideological beliefs will express less support compared to those who believe the Court makes decisions in line with their preferences. This finding, although contested (Gibson and Nelson 2014a), suggests that perhaps people are *attempting* to evaluate the Court based on ideology. Under an alternative model specification, the effect of partisanship and ideology, however, becomes negligible (Gibson and Nelson 2014a).

reasonably be viewed as apolitical institutions composed of judges who make decisions based on law, not politics. The belief that the rule of law, and the judges tasked with maintaining it, should be venerated is most likely instilled in all of us at a very young age as a part of our very culture. In fact, Donnelly (2009, 999) examines the collection of stories about the Supreme Court told to schoolchildren that paint the Court in a very positive light:

The stories we tell our schoolchildren matter. They help set the terms of our constitutional culture – defining the proper scope of action for each constitutional actor, the underlying trust citizens place in each institution of government, and the acceptable modes of constitutional argumentation and adjudication. Today our public schools present a Court that is authoritative, if not omnipotent—mostly just, if not perpetually perfect. These stories help reinforce a constitutional culture that is largely deferential to the Court, limiting references to popular resistance to the Court and often linking such popular resistance to the actions of self-interested politicians, at best, and historical villains, at worst.

If true, it could explain why scholars have not found a strong link between partisan identification and support for courts. People see courts as inherently different and so the strongest predictor of support for the president and Congress, party affiliation, should *not* be the strongest predictor of support for courts. Despite the widespread empirical evidence that political ideology is the single strongest predictor of how judges vote (Segal and Spaeth 2002), people may either not acknowledge that evidence or, even if they do, it does not factor into how people evaluate their courts. There is support for both possibilities. Some scholars have found that people believe their courts, and the judges that sit on them, make decisions based in law and can legitimately strike down laws that are inconsistent with the core democratic principles found in the Constitution (Casey 1974; Scheb and Lyons 2000). Others have found that belief in this “myth of legality” is not *necessary* for people to view courts as legitimate. People need to believe judges use reasoned, principled analysis even if ideology plays some role in how judges decide (Gibson and Caldeira 2011). The belief that judges’ decisions are at least partially

grounded in law is actually quite difficult to break, even if explicitly told the decision was political (Baird and Gangl 2006). Courts might just be different and, if true, then partisanship should rarely affect public evaluations of *any court*.

While courts may indeed have some unique qualities that make people's default judgments of them unassociated with party, I suspect that partisanship can influence public perceptions of the judicial branch. The lack of evidence for the effect of partisanship, I argue, is simply a product of scholarly focus on the United States Supreme Court. The ideological tenor of the Supreme Court is perhaps one of the most difficult for people to assess. Although the overall ideological output of the Supreme Court has been slightly conservative over the past few decades, slightly more of its liberal decisions tend to make the front-page of the *New York Times* (Bartels and Johnston 2013). According to Bartels and Johnston (2013), "the Court's policymaking over time suggests a rational basis for citizens perceiving the contemporary Court as conservative, moderate, *and even liberal* (185). The current Court's median justice, Anthony Kennedy, has been called ideologically "moderate," the "swing vote," and that based on his record, he "could not be counted as automatic votes for one side." The Supreme Court's output reflects his ideologically inconsistent voting record. So, it may just be the case that people tend not to evaluate the Supreme Court based on partisanship due to what the Court itself is doing, not because courts are inherently special and immune to being evaluated in a partisan light.

There is little reason to believe party identification, the most reliable predictor of how people view and evaluate American politics, is *completely* absent when people evaluate their courts. The conditions are often not right for people to reliably use party as a guide, and perhaps people would like to even avoid doing so. But when faced with strong partisan cues, it is hard to maintain the fiction that courts make decisions based on law without political considerations. It

is hard to believe that a court that issues an overwhelming percentage of decisions in one ideological direction are composed of judges making *principled* decisions. The strength of party on public evaluations of political institutions and actors depends on the partisan cues available to the public. Most courts, and certainly the Supreme Court, are formally nonpartisan. And people rely less on party identification in evaluating nonpartisan officials of any branch (Schaffner, Streb, and Wright 2001). Most judicial elections do not contain televised advertisements and when they do, most do not contain negative advertisements (Hall 2015) unlike the more partisan attack advertising that occurs for the other branches of government. And the judicial candidates themselves seem to focus almost exclusively on their credentials in the television spots that they do run (Hall 2015). For most courts, in most states, the institution is designed *specifically* to make it difficult for people to evaluate courts based on partisanship.

But compare citizens living under the jurisdiction of the New Jersey Supreme Court to citizens living under the jurisdiction of the Alabama Supreme Court. I suspect residents of these respective states will have very different experiences with their state high court and their evaluations of these institutions should reflect as much. The New Jersey Supreme Court, by tradition, is composed of three Democrats and three Republicans with the seventh justice often sharing the current governor's partisanship. Although Governor Chris Christie has recently threatened this balance (Corriher and Brown 2014), the standoff between Christie and the state senate ended with Christie recently appointing a Democrat to retain this balance (Johnson 2016). The New Jersey high court seems unlikely to send strong partisan cues through the decisions they make due to its partisan balance and the fact that control of the governor's mansion in that state tends to switch political parties.

However, Roy Moore, the Chief Justice of the Alabama Supreme Court could not be any clearer about where he stands on the most politically salient of issues. His defiance of the Supreme Court order legalizing same-sex marriage made national news (Blinder 2015). The Alabama Supreme Court has no Democratic justices and its decisions have made it one of the most conservative courts in the country for decades (Bonica and Woodruff 2015). I would suspect that Democrats and Republicans in Alabama know exactly where its supreme court stands on political issues. There is no guessing; no mystery; no “myth of legality” in that state.

Receiving Partisan Cues

In order for party to influence how members of the public see their courts, people need to be aware of partisan cues coming from the court itself. Two conditions seem particularly plausible for people to pick up on either the court’s partisanship – having higher levels of knowledge about courts (self-motivated or otherwise) or being directly exposed to the partisan nature of courts through partisan judicial elections. This argument boils down to the following: people see courts through a partisan lens when the partisan nature of courts is revealed to them.

Court Awareness. People who are more aware of courts tend to express higher levels of support for the judicial branch. This finding has been replicated in so many studies over so many years that a phrase has developed to neatly summarize this relationship: “to know courts is to love them” (Gibson, Caldeira, and Baird 1998). Scholars have theorized that the reason why knowledgeable people grant courts higher levels of support is because those people are exposed to the legitimizing symbols associated with courts. People learn about the court by seeing the judges in their robes, the marble columns of court buildings, the gavel, and perhaps even the

legal reasoning behind the decisions (Gibson et al. 2010). In fact, people who know more about courts, quite counterintuitively, are *more likely* to believe in the “myth of legality” (Casey 1974; Scheb II and Lyons 2000). In other words, people who understand the role and purpose of courts in the American constitutional democracy are *less* likely to ascribe to the legal realist view of judicial decision-making.

Except, not all courts can rationally be painted in a venerable light. Some courts are composed of extremely conservative or liberal justices and issue decisions heavily in one ideological direction. Zaller (1992) argues that those with high levels of political sophistication are not persuadable, because they are often strong partisans capable of evaluating political institutions using party as a guide. Having high levels of court awareness might make people have the capacity to evaluate courts based on party or ideology – if courts make their ideology known. And so having knowledge of ideologically unbalanced courts should not lead to the exact same levels of public support among partisans in the public as having knowledge of courts that are ideologically balanced in their output would.

While knowledgeable partisans could be attempting to evaluate courts based on partisanship, even this may be difficult for the reasons noted above. *Differences* between partisans should not be noticeable unless the court is ideologically extreme. Simply put, partisanship is used by political sophisticates in evaluating political objects (including courts, I argue) but its effect will be negligible when courts obfuscate its political leanings by issuing decisions pleasing to both groups of partisans.

Partisan Judicial Elections. But even those who lack political sophistication can evaluate politics using party when party affiliation is out in the open. States with partisan judicial

elections provide the heuristic cue that even low-information citizens can use to assess and evaluate political institutions, including courts. Partisan judicial elections resemble elections for the other major branches of government and so my expectations are that people will evaluate courts based on partisanship in states that select their judges in that manner, compared to the rest. State politics scholars debate the role judicial elections play in how people evaluate their courts (Benesh 2006; Cann and Yates 2008, 2016; Gibson 2012; Kelleher and Wolak 2007; Wenzel, Bowler, and Lanoue 2003). Often, these studies suggest (and find evidence for) a uniform effect of judicial elections on how people evaluate courts. The empirical results are mixed, however, with some scholars discovering a negative effect (Benesh 2006), others finding no effect (Kelleher and Wolak 2007), and still others uncovering a surprisingly positive effect of judicial elections on public support for courts (Gibson 2012). If my theory is correct, these elections should activate partisan evaluations courts, the effect of which should differ depending on whether the individual shares the political party of the judge or judges being elected. For co-partisans, the effect of partisan elections on public evaluations of courts should be positive; for people who voted for the losing candidate (or who had no candidate representing their political party to vote for), partisan elections might negatively contribute to how they see courts. And the relative balance of positive effects and negative effects in any given year might explain why the results in the literature thus far have been so mixed.

I would summarize my argument in the following manner: people will evaluate political institutions, including courts, when they have the relevant information to do so. I have argued that people will have that information when they know more about courts or when they live in a state that holds partisan judicial elections. The magnitude of the *effect* of partisanship on public evaluations of courts, however, should be negligible when the court is ideologically balanced in

its decision-making. Even the most politically sophisticated of partisans would have a hard time evaluating the Supreme Court, and other courts like it, based on partisanship. I would expect, however, to notice differences in how Democrats and Republicans see their courts when their courts are ideologically unbalanced. Those courts most resemble the other branches of government in failing to hide their partisan-leanings, and I would expect that the people who have the capacity to evaluate such courts based on partisanship will do so.

Data and Methods

The 2006 Annenberg Judicial Independence Survey contains a nationally representative sample of 1,002 U.S. adults and asks people various questions about their state courts and judges.¹²

Believing that courts are impartial decision-makers is the central component of a court's legitimacy (Gibson 2008, 2012) and often the chief concern among Supreme Court Justices. In *Williams-Yulee v. Florida Bar* (2015), Chief Justice John Roberts, in writing for the majority acknowledged that, "public perception of judicial integrity is accordingly 'a state interest of the highest order'." To measure public evaluations of state courts, I look at responses to questions that ask people the extent to which they believe their state courts are impartial. I operationalize perceptions of court impartiality as a scale ranging from people believing that judges are completely biased in their decision-making (least impartial) to people believing judges purge all political or personal motivations from their decision-making (most impartial). I use an index of

¹² I exclude the three respondents from the District of Columbia, because they do not have state courts.

six different questions to capture the concept of perceived impartiality.¹³ These items scale together relatively well ($\alpha = .62$) and all items capture some aspect of the extent to which people believe that courts are doing what they are supposed to be doing, which is making impartial decisions based on law.¹⁴

This survey utilizes a five-point measure of party identification ranging from -2 to 2 with -2 indicating a self-identified Democrat, 2 indicating a self-identified Republican and 0 indicating a respondent who neither identified with either major political party nor leaned toward one.¹⁵

I have argued that the effect of party is most likely contingent on a number of factors. The first is the state supreme court's partisanship. Measures do not exist that code for the party identification of state court judges and often these judges do not formally have one. Moreover, simple identification of justices as Democrats and Republicans might not reveal the strength of those party preferences. Judicial ideology scores are the next best thing. The best indicator of the overall ideological direction of state supreme courts is the ideology of the median justice on that court, henceforth called *court conservatism*. For court conservatism, I use Windett, Harden, and

¹³ The questions include the degree to which respondents believe: (1) the ethical practices of their state judges are good, (2) their state courts get too mixed up in politics, (3) their state courts do not favor the wealthy; (4) judges on their state courts are legislating from the bench rather than interpreting the law, (5) judges' rulings are based on their political views, and whether (5) state courts are fair and objective in their rulings or more politically motivated. Each of the six components was rescaled from 0 to 1 and then the mean of the six items was taken, which could have a theoretical range from 0 to 1. Exact question wording is in the Appendix.

¹⁴ In no case would excluding any item produce a higher Cronbach's alpha.

¹⁵ Ideally, the survey would ask for a person's *ideological* leanings to compare with their state high court's ideology. This survey does not ask that question nor do any other publically available surveys that ask people about their state courts. Although one could point out that partisanship and ideology are two separate concepts, political scientists largely agree that on most issues, particularly in the 2000s, partisan sorting has occurred (see Fiorina and Abrams (2008) for a review of the polarization literature) making the number of people who have mismatched ideological preferences and party preferences quite low.

Hall's (2015) judicial ideology scores. The development of these scores not only take into account the actual votes of the judges on these courts but also maps them onto a common-space using Bonica and Woodruff's (2015) CFscores. These ideology scores significantly outperform the previous measures in predicting justices' votes in out of sample cases (Windett, Harden, and Hall 2015). Because these scores actually incorporate the votes of the justices in their creation and allow for the possibility of changing ideology over time, the median justice's score should reflect the overall ideological direction of the court's decisions to a significant degree due to both the median voter theorem (Black 1948; Downs 1957) and the predictive accuracy of the attitudinal model of judicial decision-making (Segal and Spaeth 2002).¹⁶

I have also argued that there are two likely scenarios where people are able to pick up on any partisan cues coming from the state supreme court people. The first is they have higher levels of awareness of courts. I measure *judicial knowledge* using all available factual questions related to courts (both national and state-level) and one subjective assessment about court knowledge contained within the survey.¹⁷ The second is if they live in a state that selects their judges using *partisan elections*. This is measured using a dummy variable indicating whether or not a state selects its state supreme court judges using partisan judicial elections.¹⁸

¹⁶ Scores closer to 0 indicate a moderate justice while scores closer to -1 and 1 indicate a relatively extreme liberal and conservative median justice, respectively. I refer to the state high court ideology in the following results as "court conservatism" because increasing values on this variable indicate an increasingly conservative court.

¹⁷ Respondents scored higher on this measure if they knew (1) how judges are selected in their state, (2) that there are constitutional protections for judges in their state, (3) the existence of the judicial branch, (4) the Chief Justice of the U.S. Supreme Court, (5) that courts usually give written decisions, and (6) the respondent's subjective assessment of their knowledge of the function and role of the judiciary. Each of the six components was rescaled from 0 to 1, added together, and then the resulting variable was divided by six to have a theoretical (and, as it turns out, actual) range of 0 to 1. Exact question wording is in the Appendix.

¹⁸ I include both Ohio and Michigan as having partisan elections: Candidates for both Ohio and Michigan's Supreme Courts are initially selected in a partisan manner. Although the general

To control for the possible legalistic influences affecting public evaluations of state high courts, I take the proportion of decisions on the state court of last resort that were unanimous in the five years preceding the survey 2001-2005. Data come from M. E. K. Hall and Windett's (2013) dataset of all state supreme court decisions from 1995 to 2010.¹⁹

To argue that partisanship *grounds* people's support for courts would ignore the evidence that agreeable outcomes, which co-partisan judges would produce, are not the only relevant considerations in how people judge their courts. While people might not expect judges to mechanically apply the law, there is evidence that people expect judges to issue decisions in a principled manner (Gibson and Caldeira 2011). People have overwhelming respect for the rule of law in this country and expect judges to uphold their duties to protect it (Tyler 2009). Over 60% of the American public rate the proposition that judges should "strictly follow the law" as "very important." (Gibson and Caldeira 2009a). Legalistic decision-making, as opposed to making decisions based on ideology, may, in fact, be the *overriding* factor in how people evaluate their courts. Only 33% of the American public rate the proposition that judges should "give my ideology a voice" as very important and even fewer rate the proposition that judges should "base decisions on party affiliations" (18%) (Gibson 2012). These statistics support the argument that people want courts to be different than the other branches of government and reward them when they do behave differently (Hibbing and Theiss-Morse 1995).

What can courts do, however, to indicate to the American public that they are indeed following the law in making their decisions? Some Supreme Court Justices believe that

election is technically nonpartisan, the party affiliation of the candidates is never in doubt due to their initially partisan selection process (Brandenburg and Caufield 2009).

¹⁹ Both Texas and Oklahoma have two courts of last resort. I used the statistics for both states' Supreme Court although the findings reported remain the same after substituting the values for both states' other court of last resort, the Court of Criminal Appeals.

unanimity sends this signal. Chief Justice Earl Warren sought out Justice Jackson's vote while Jackson was hospitalized and persuaded Justice Reed to not write a dissenting opinion in *Brown v. Board of Education* (1954). Unanimity was also valued in the cases stemming from *Brown* as well (Corley, Steigerwalt, and Ward 2013). In fact, the majority of the Court's rulings every term are unanimous or nearly unanimous (Corley, Steigerwalt, and Ward 2013).²⁰

Unanimous decisions could suggest no more than consensus, amongst learned scholars of law, that a particular course of action is just or, at the very least, legally demanded. If this were the case, one would expect that greater percentages of unanimous decisions would lead one to evaluate those courts more positively than courts that lack high levels of judicial consensus. There is some support for this contention in the literature. People view courts in a more favorable light when their decisions are unanimous (Baird and Gangl 2006; Zink, Spriggs II, and Scott 2009).

Legalistic decision-making is simply another possible cue courts could send. And I have argued up to this point that two conditions make it more likely for people to pick up on the partisan cues courts could send: *judicial knowledge* and *partisan elections*. I thus interact *unanimity* with those variables to capture the possible heterogeneous effects court signals may have on the general public.

Two state-level controls may have relevance toward how people perceive their state courts: the violent crime rate and level of judicial integrity. Both of these variables are meant to

²⁰ Conversely, lack of consensus seems to worry Justices. In an effort to lambaste the majority for its opinion in *Bush v. Gore* (2000), Justice Stevens wrote that the decision threatened "the Nation's confidence in the judge as an impartial guardian of the rule of law." In a ruling that effectively awarded the presidency to George W. Bush, the justices not only split, but did so along ideological lines. Such declarations may lead one to believe that highly politicized, split decisions negatively affect public perceptions of the U.S. Supreme Court and perhaps courts in general.

capture the overall *performance* of the court system. People may blame courts for higher crime rates or might hear news stories about corruption within the judiciary which could affect overall perceptions of state courts as being fair and impartial. The violent crime rate from 2005 was acquired from the FBI Uniform Crime Reporting Program. A measure of judicial integrity comes from the 2012 State Integrity Investigation. Higher scores on this measure indicate greater transparency and accountability for judges in that state.

I control for two individual-level explanations for support for state courts at the individual-level: experience (Benesh 2006) and differential media exposure (Johnston and Bartels 2010).²¹ People who have good or bad experiences with courts at a local level might infer that the entire state court system is like that court or simply base their opinion of state courts primarily on that experience. There are two kinds of experience that have different predicted effects on people's attitudes toward the judiciary: "high stakes, low control" and "low stakes, high control." High stakes, low control experience refers to the experience one has as either a defendant or plaintiff in a court case. Whether they win or lose, the outcome is high stakes for the people involved, and they have little personal control over the outcome of the case. This kind of experience has been found to lower peoples' confidence in the state court system relative to those with no experience with state courts at all (Benesh 2006). Respondents who have low stakes, high control experience with the courts have served as a juror. They have low stakes in the outcome of the case, because they are not personally affected by it, but jurors also have a high degree of control over the outcome (because they decide). This type of experience has been found to increase public confidence in state courts (Benesh 2006).

²¹ For the exact coding and question wording, see the Appendix.

Differential media exposure is a measure of how much the respondent reports being exposed to sensationalist media (talk show radio and cable news) relative to traditionalist media (newspapers and network news) with higher values indicating more exposure to sensationalist media. More exposure to sensationalist media has been found to lower support for courts, most likely because sensationalist media tend to portray courts in a more partisan, less legalistic light (Johnston and Bartels 2010).

Given that I am trying to explain variation using both individual-level and state-level variables, I use linear multilevel random-coefficient models with random coefficients associated with judicial knowledge and party identification.²²

Results

Table 1 contains the results for the first two models. The results from the first model suggest that party plays little role in how people evaluate their state courts. There is no evidence that the public at-large pick up on partisan cues coming from their state courts. The results are completely consistent with the bulk of prior literature examining the effect of partisanship on the legitimacy of the United States Supreme Court. People do not evaluate courts using party as a cue. But, the results from the second model suggest people do use partisanship in their evaluations of courts and that the effect of partisanship is indeed conditional in nature. The three-way interaction between the court conservatism, party identification of the respondent, and respondents' level of judicial knowledge is statistically significant. The two-way interaction between unanimity and knowledge is also statistically significant. Interpretation of both the

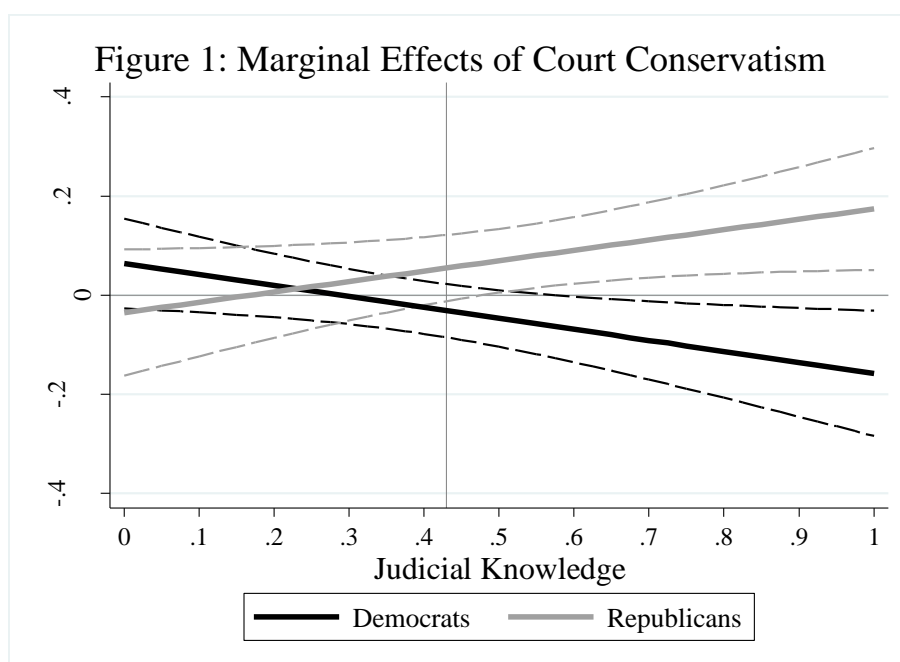
²² I also used the individual-level survey weights provided by the Annenberg Foundation in the survey and included the appropriate random coefficients when necessary.

marginal effects and predicted values will shed light on the extent to which the hypotheses concerning the effects of party and unanimity are correct.

Table 1: Predicting Perceptions of State Court Impartiality using Knowledge		
	Model 1	Model 2
Court Conservatism	.013 (.017)	.014 (.034)
Party Identification	.007 (.004)	.010 (.010)
Judicial Knowledge	.045 (.032)	-.218* (.105)
Court Conservatism \times Party Identification	.022 (.014)	-.025 (.023)
Party Identification \times Judicial Knowledge		-.003 (.021)
Court Conservatism \times Judicial Knowledge		-.006 (.021)
Court Conservatism \times Party Identification \times Judicial Knowledge		.108* (.041)
Proportion Unanimous Decisions	.038 (.033)	-.110 (.074)
Proportion Unanimous Decisions \times Judicial Knowledge		.348* (.141)
<i>State-level Controls</i>		
Judicial Integrity	-.047† (.025)	-.051* (.024)
Violent Crime Rate	-.051† (.029)	-.050† (.029)
<i>Individual-level Controls</i>		
Differential Media Exposure	-.066* (.034)	-.063† (.034)
Experience (Low Stakes, High Control)	-.021 (.023)	-.023 (.024)
Experience (High Stakes, Low Control)	-.028 (.019)	-.028 (.018)
Constant	.417* (.033)	.529* (.059)
Variance (Party Identification)	.000* (.000)	.000 (.000)
Variance (Knowledge)		.000 (.000)
Variance (Constant)	.000* (.000)	.000 (.000)
Covariance (Party Identification, Constant)	-.000 (.000)	
N	994	994
<i>Multilevel Regression Estimates, Standard Errors in Parentheses. * p < .05 † p < .10</i>		

There should be no discernable relationship between either partisan identification and court conservatism for those with low levels of judicial knowledge. That is, for those largely uninformed about the judicial branch of government, they are unlikely to pick up on partisan or legalistic cues coming from their state high court. For those who are informed of the judicial branch, however, people should be capable of evaluating their state courts based on partisanship.

Figure 1 is a plot of the marginal effects of court conservatism for Democrats and Republicans across the entire range of judicial knowledge. The gray vertical line is the mean value of knowledge (.43). For low knowledge partisans, court ideology has no statistically significant effect on how impartial they view their state courts. These people seem not to pick up on any ideological cues coming from their state high court. That or they do not evaluate courts based on partisanship. However, for partisans with only slightly above average knowledge of the judicial branch, increasing court conservatism increases perceptions of court impartiality for Republicans and decreases perceptions of court impartiality for Democrats. These marginal effects increase the more knowledgeable one is about the judiciary. In other words, the effect of party on public perceptions of court impartiality increases as one goes from having moderate levels of knowledge to having the maximum level of court knowledge. Party plays a critical role in how high knowledge people evaluate their state courts.



What these effects look like in terms of predicted values can be seen in Figure 2. The predicted values of court impartiality for both high knowledge Democrats and Republicans overlap to a significant degree across the range of court ideology but diverge when courts are ideologically extreme.²³ In other words, Democrats living in states with an extremely conservative state high court will have *different* perceptions of court impartiality than Republicans. The same holds true for Republicans living in states with an extremely liberal state high court. For those with no knowledge of the judicial branch, the predicted values for both Democrats and Republicans across the entire range of state high court ideology are statistically indistinguishable from each other. The differences in predicted values are substantively important: A high knowledge Democrat is more likely to believe their very liberal court is impartial (.54) compared to a similarly situated Republican (.23), a statistically significant difference of .31 on a 0 to 1 scale. Likewise, a high knowledge Republican is more likely to

²³ Holding all other variables at their means.

believe their very conservative court is impartial (.58) compared to a similarly situated Democrat (.22), a statistically significant difference of .36. Roughly speaking, similarly situated Democrats and Republicans living in states with ideologically extreme state high courts have a *substantial* difference in perceived court impartiality that is one-third of the scale of the dependent variable. High knowledge Democrats and Republicans living in a state with a moderate court have extremely similar predicted values (compare .38 to .41) and the difference is not statistically significant. None of the differences in predicted values among low knowledge respondents are statistically significant (see Table 2).

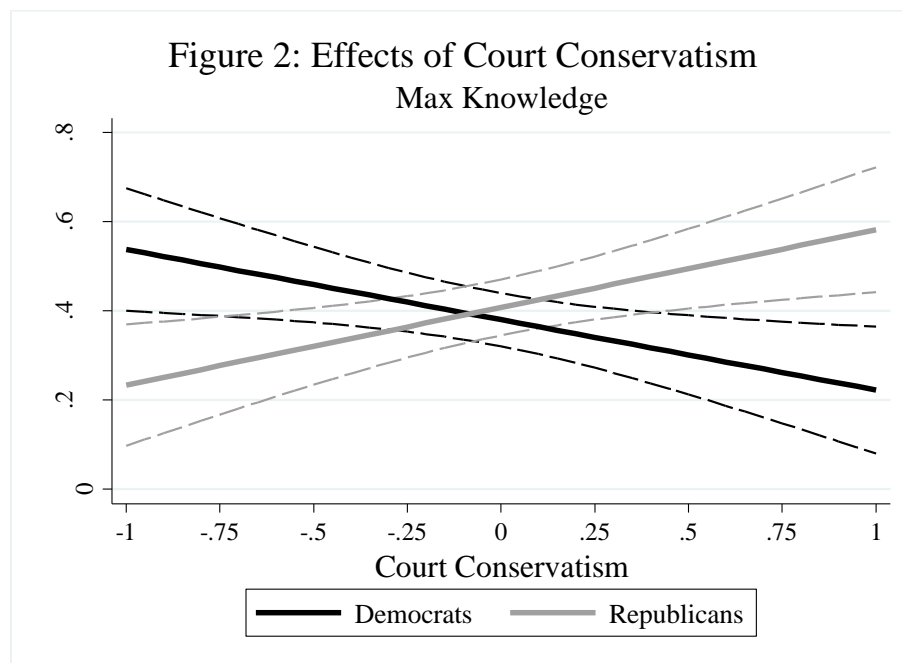


Table 2: Predicted Values of Court Impartiality Using Knowledge				
	<i>High Knowledge</i>		<i>Low Knowledge</i>	
	Democrat	Republican	Democrat	Republican
Very Liberal Court	0.54	0.23	0.27	0.41
Moderate Court	0.38	0.41	0.33	0.38
Very Conservative Court	0.22	0.58	0.4	0.34
Estimates taken from results in Table 1, Model 2				

The United States Supreme Court *leans* conservative; the results here suggest that even if people were trying to evaluate the highest court based on partisanship, the effects would be negligible, at best. Moreover, the effect of party was only discovered after taking into consideration that only some segment of the population, those with higher levels of court knowledge would even be aware of the ideological leanings of a court. The results are both completely consistent with the findings of extant literature on the Supreme Court, but do suggest what *would* happen to public support for the Court if it strayed too far from its current ideologically balanced output.

The results also indicate strong support for the hypothesis that greater proportions of unanimous decisions will increase public perceptions of court impartiality, conditional on judicial knowledge. Knowledgeable people view more unanimous courts are more impartial than courts that lack such high levels of judicial consensus. The results suggest that people care about legalistic decision-making as well as policy output, a finding that comports quite well with the research on how the effect of perceiving a process as fair can sometimes overshadow the effect of having a satisfactory outcome (see MacCoun (2005) for a review of this literature). The results also confirm many of the existing theories that suggest that people see courts as different than the other branches of government.

Figure 3 contains the marginal effects of unanimity across the range of judicial knowledge. Again, one needs only slightly above average knowledge of the judicial branch for unanimity to have a positive effect on public perceptions of court impartiality. The positive effect continues to increase as judicial knowledge increases.

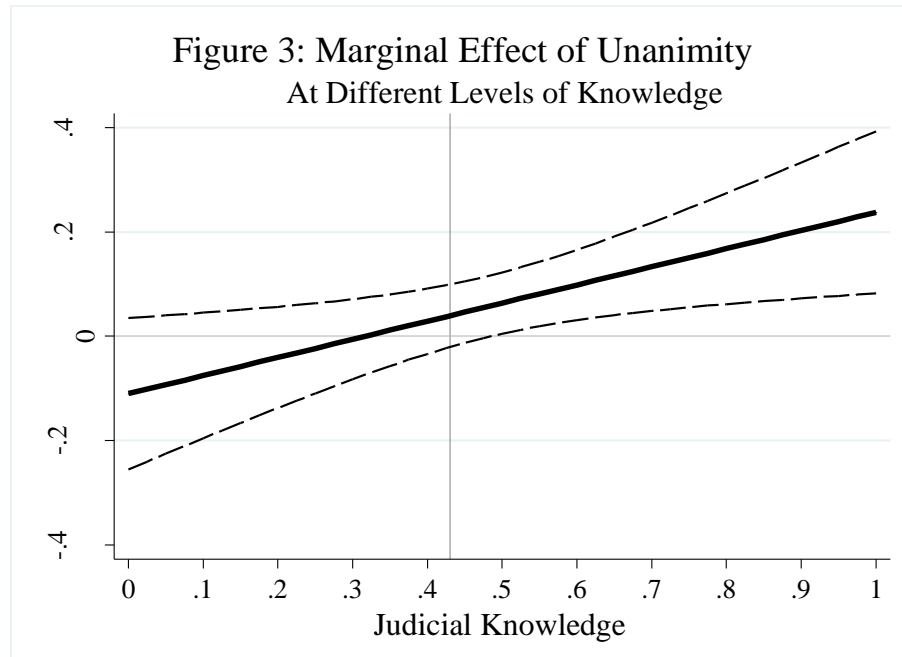
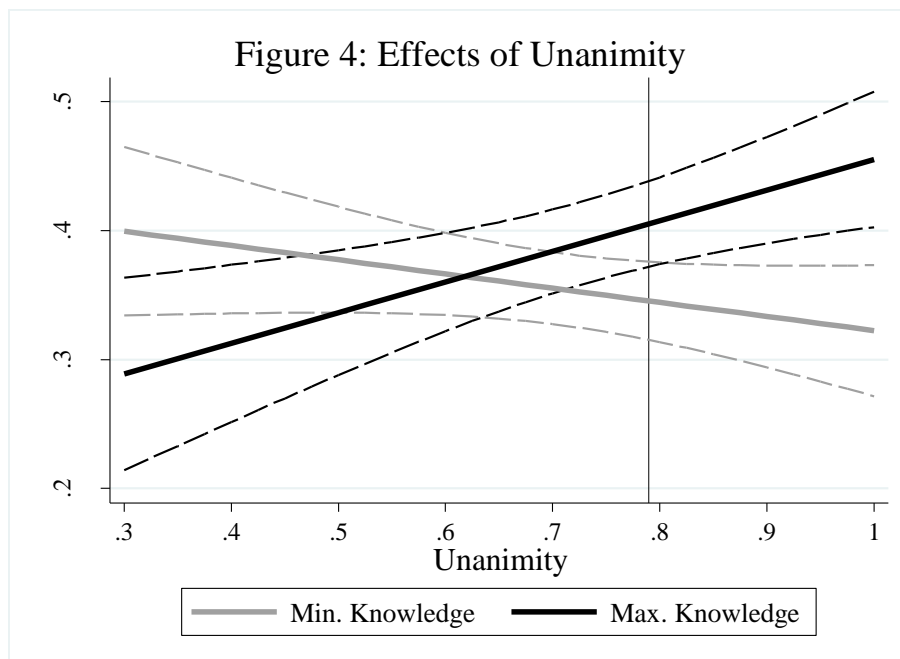


Figure 4 plots out the predicted values of court impartiality for those with the minimum and maximum values of judicial knowledge. The confidence intervals for the predicted values of court impartiality overlap at the low end, but high knowledge and low knowledge respondents have diverging perceptions of court impartiality in states with slightly above average levels of unanimity. For a person that has high levels of judicial knowledge living in a state with a high court that issues only 30 percent unanimous decisions, public perceptions of impartiality are low (.29). But if that person was living in a state with a completely unanimous court (and some courts come exceedingly close), public perceptions of court impartiality are higher (.45), a difference of .16 on a 0 to 1 scale. The effects of partisanship are far greater than the effects unanimity, but one should not discount this effect as being inconsequential.



While the violent crime rate does not seem to affect perceptions of court impartiality in this model, the measure of judicial integrity does. The higher the state court integrity, the lower the public believes the courts are impartial. This initially counterintuitive finding has quite an intuitive explanation, as previously mentioned.

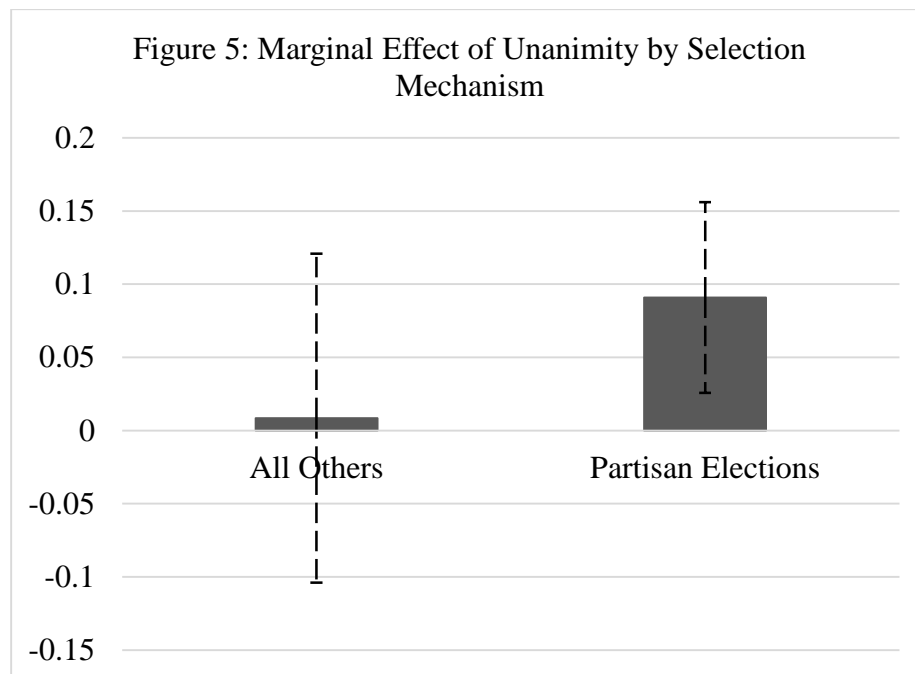
Neither form of experience with state courts seems to affect public perceptions of court impartiality, but more exposure to sensationalist media relative to traditional media leads to lower perceptions of court impartiality. The effect is statistically significant at the .10 level.

As previously mentioned, if my theory is correct, then people who live in states that hold partisan judicial elections should pick up on partisan cues coming from the state high court and may even be more aware of its overall level of unanimity. A vast array of literature examining voting in judicial elections comes down on the side that elections provide valuable information to its citizens and that people are, by and large, able to vote for judicial candidates who most align with their preferences in partisan judicial elections (Bonneau and Hall 2009; Hall 2015). Table 3 contain the results for people living in states that hold these elections.

Table 3: Predicting Perceptions of Impartiality using Partisan Judicial Elections	
	Model 3
Court Conservatism	-.005 (.024)
Party Identification	.006 (.005)
Partisan Elections	-.056 (.052)
Court Conservatism \times Party Identification	.003 (.011)
Party Identification \times Partisan Elections	-.012 (.010)
Court Conservatism \times Partisan Elections	.034 (.031)
Court Conservatism \times Party Identification \times Partisan Elections	.055* (.022)
Proportion Unanimous Decisions	.038 (.033)
Proportion Unanimous Decisions \times Partisan Elections	.101 (.071)
<i>State-level Controls</i>	
Judicial Integrity	-.057† (.031)
Violent Crime Rate	-.063* (.030)
<i>Individual-level Controls</i>	
Differential Media Exposure	-.072* (.034)
Experience (Low Stakes, High Control)	-.021 (.022)
Experience (High Stakes, Low Control)	-.027 (.019)
Constant	.462* (.060)
Variance (Party Identification)	.000 (.000)
Variance (Constant)	.000 (.000)
Covariance (Party Identification, Constant)	-.000 (.000)
N	994
<i>Multilevel Regression Estimates, Standard Errors in Parentheses * p < .05 † p < .10</i>	

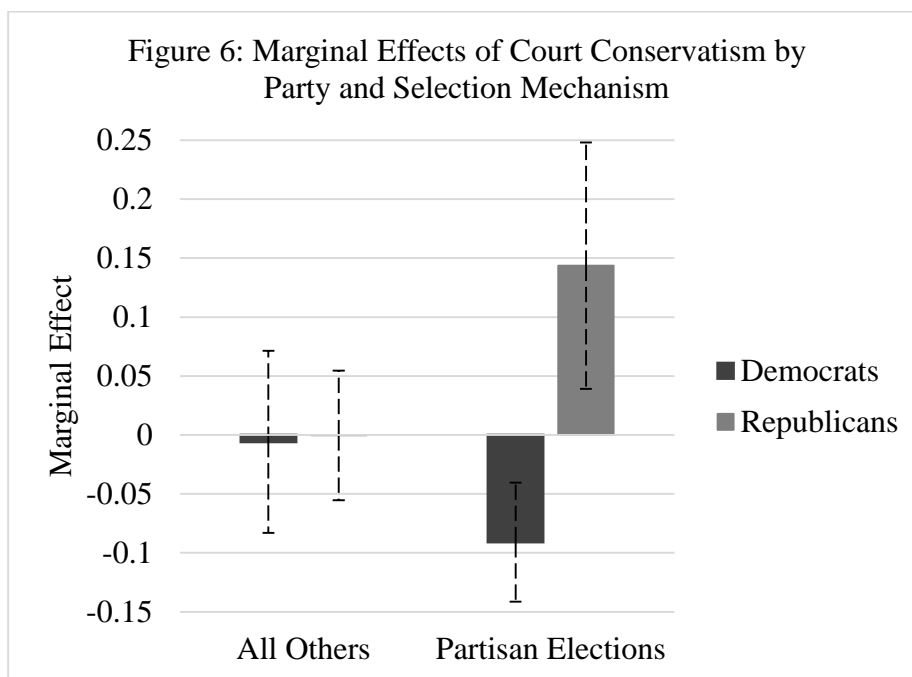
The results from the second model hold for the three-way interaction in this model. In other words, people are significantly more likely evaluate courts based on party when they live in states that hold partisan judicial elections compared to people who live in all other states. Partisan elections make evaluating courts based on partisanship easier and the results indicate the veracity of that hypothesis.

It is unlikely that the focus of judicial campaigns is on the court's level of unanimity. Rather, what is most likely to dominate the airwaves in a judicial election are policy pronouncements (Gibson 2012; Hall 2015). Nevertheless, in evaluating the marginal effects of the statistical interaction between unanimity and partisan elections, the effect of unanimity is indeed positive for people who live in states that hold partisan judicial elections. The positive effect is just indistinguishable from all of the people who live in states without such elections (see Figure 5).



People who live in states that hold partisan judicial elections, relative to people who live elsewhere, evaluate courts based on party (see Figures 6 and 7). The differences in predicted

values of court impartiality at the extremes of court ideology are similar to the predicted values for the models containing the measure of judicial knowledge (see Table 4).²⁴ Partisan judicial elections appear to be a plausible, albeit incomplete, substitute for judicial knowledge. People appear to know more about the ideology of their state courts when they live in states that elect their judges in partisan elections, because they evaluate the impartiality of the court based on partisanship.²⁵



²⁴ The difference in predicted values for Democrats and Republicans living in a state with an extremely liberal court is .27 while the difference for Democrats and Republicans living in state with an extremely conservative court is .21. These are slightly smaller differences than the models with judicial knowledge in them, but are still of a high magnitude (roughly one-fourth of the scale of the dependent variable).

²⁵ Perhaps the only people that have higher levels of judicial knowledge are those that live in states with partisan judicial elections, and thus my original finding is merely a product of living in states that hold partisan judicial election. I ran a separate model (not shown here) that added a dummy variable for whether or not the respondent lived in a state that holds partisan judicial elections to the original model. The results for the three-way interaction are statistically and substantively similar. Partisan elections bombard the electorate with partisan information, but people learn about their state courts in other ways as well.

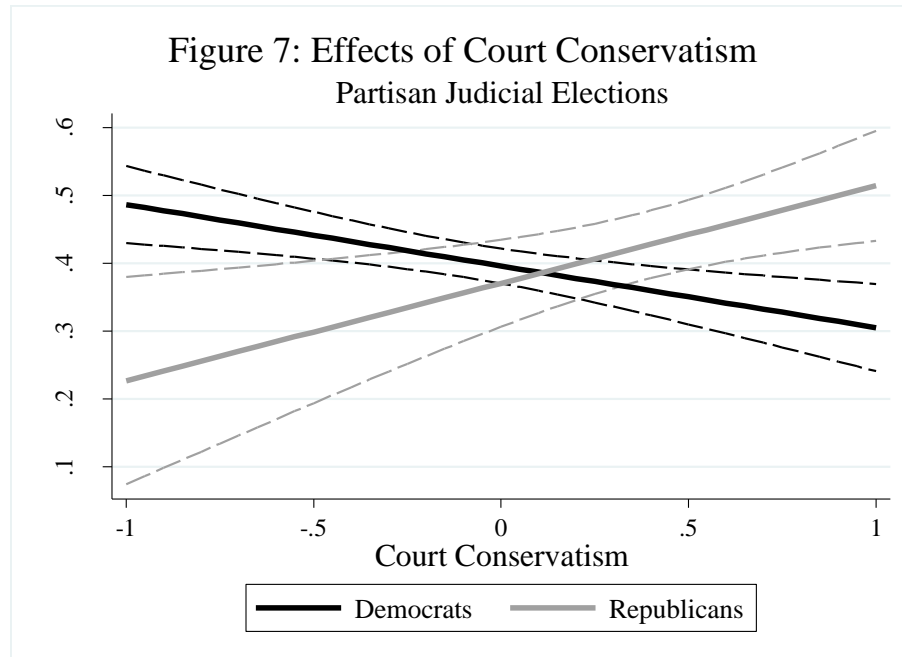


Table 4: Predicted Values of Court Impartiality
Using Partisan Elections

	<i>Partisan Election</i>	
	Democrat	Republican
Very Liberal Court	0.49	0.22
Moderate Court	0.40	0.37
Very Conservative Court	0.30	0.51
Estimates taken from results in Table 3, Model 3		

Discussion

Partisanship affects how people evaluate their courts. Having moderate to high levels of knowledge about the judiciary or simply living in a state that holds partisan judicial elections makes people view courts like the other branches of government – through a partisan lens. Finding comparable effects of party under both conditions lends incredible support to the

argument I advanced in this chapter: that when conditions make it easy for people to use party as a cue in evaluations of any branch of government, in this case the judicial branch, people *will* use that information. Whether they seek out that information on their own, because they are interested in courts, or are simply bombarded with that information as might be the case for people who live in states that hold partisan judicial elections, when courts appear partisan, they are evaluated as such.²⁶

Literature on state courts has yet to consistently find a uniform effect for partisan judicial elections on how people evaluate their courts. Perhaps the reason why is because partisan elections trigger partisan evaluations of courts. The institution will be viewed as more legitimate in the eyes of co-partisans and significantly less legitimate for those left out of the state high court's rulings. The overall effect of partisan judicial elections on public evaluations of courts may be negligible if the court is ideologically balanced, *positive* if the majority in the state controls the court and *negative* if the majority in the state does not. This is to say nothing about the implications of having support come from only one segment of the population. I would argue that this might endanger the court's ability to act in a counter-majoritarian manner; if support is dependent on partisanship, it can just as easily be taken away due to an unpopular ruling.

Knowledge is often the single most consistent predictor of support for courts. My findings suggest that to know courts is not necessarily to love them. The leading theory behind this finding is that greater knowledge of courts leads to greater exposure to the legitimizing

²⁶ But there is evidence that courts are indeed unique political institutions. The public not only appears to respond to the ideological output of courts but also *how* courts are making those decisions. If the court is highly consensual, knowledgeable citizens view that court as substantially more impartial than citizens living under a bitterly divided state high court. I cannot tease out the exact causal mechanism. Perhaps this finding exists because people believe the court is acting legalistically when it issues a unanimous decision or perhaps the public simply disapproves of dissensus because that is *not* how courts should act.

symbols of the judicial branch of government. But perhaps the reason this finding often translates to the state judiciaries as well is because having greater knowledge *often*, although not always, leads to the knowledge that state high courts are making decisions consistent with partisan preferences. High levels of support coming from knowledgeable Vermont Democrats is far more likely to be grounded in satisfaction with the high court's output than gaining an appreciation for the legalistic symbols for the high court in that state.

In some ways this chapter is about how people evaluate their state courts, but in other ways, this study answers questions about how people evaluate the United States Supreme Court that cannot be answered by only studying that Court. Until now, there has only been speculation that because the U.S. Supreme Court issues roughly half-liberal half-conservative decisions, that political ideology and partisanship never predict differences in level of support (B. L. Bartels and Johnston 2013; Gibson and Nelson 2014a). The results here suggest that speculation is most likely true. For people living in states with moderate courts or even courts that lean conservative or liberal, partisanship plays little role in how impartial those courts are perceived. However, the differences between Democrats and Republicans in how they view ideologically extreme courts is of a significantly high magnitude. Ideologically extreme courts like Vermont or Texas appear to have support from only one segment of the population – the majority in that state. The partisan minority do not believe those state courts are impartial and, given that impartiality is the cornerstone of a court's legitimacy, do not afford those court's legitimacy. The implication of these findings is that if the U.S. Supreme Court started heavily favoring one political ideology over the other, its legitimacy would decrease, because one major segment of the population would believe the Court lacks impartiality.

So what if support for courts is grounded in partisanship? So long as that support comes from partisans in the *majority*, those judges will keep their jobs. However, widespread belief in the impartiality of courts is a nontrivial sentiment for courts to try to maintain. In states that are ideologically extreme, a sizable minority of the population *does not* view them as impartial. Lacking wide-spread legitimacy, these courts face a difficult task of maintaining the rule of law. People who view their courts as legitimate are more likely to defer to the court's decisions (Tyler and Huo 2002). But the implication is that if people do not view their courts as legitimate, they are more likely to disobey decisions from courts.

To frame this implication within the leading theory of support for the United States Supreme Court – positivity bias – I would argue that political minorities in states with ideologically extreme state courts are experiencing “sustained dissatisfaction.” Courts that constantly issue decisions that are displeasing to some segment of the public might be willing to remove their support for their court because experiencing sustained dissatisfaction with a court's output dispels the myth that the court is a place where any person can receive a fair hearing (Gibson and Caldeira 2009a). The findings are consistent with what would happen *if* people were to have such repetitive negative experience with their courts. Such people would not view their courts as impartial, would not afford those courts legitimacy, and may not even obey those courts' decisions.

Chapter IV: Do Court Decisions Shape Public Perceptions of the Judicial Branch?

A Survey Experiment

Why do some people view courts as more impartial than other people? In my first empirical chapter, I found that a sizable portion of the American public is aware of their state courts and that levels of awareness vary based on *what courts are doing*. If knowledge is dependent on the actions of state high courts, then so too might public evaluations of the judicial branch. In my second empirical chapter, I test the theory that public evaluations of the judicial branch will be partisan in nature when courts act in a partisan manner. I find support for that hypothesis: Democrats and Republicans have differing perceptions of state courts when they are ideologically extreme. I also find that unanimity makes courts appear more impartial. So far, I believe I have presented compelling evidence that people are capable and do receive information about their state courts from their state supreme court and that people's perceptions and support for such courts are, in part, dependent on the information they are receiving. There is, in other words, a great deal of external validity to the claims I have been making.

With that said, there are a few limitations to the previous chapter that may preclude complete confidence in the results thus far presented. First, I use the best available measure of court ideology to date – and it is a vast improvement on previous measures because it incorporates information on how justices voted in each case. Yet it falls short of a perfect measure that would include the ideological coding of every case the justice heard and his or her votes in every single case. It is also possible that the media cover the court in a biased manner – failing to accurately portray how liberal, moderate, or conservative that court truly is. My results suggest that such problems are not that severe (because I find statistical significance in a world

of imperfect measures), but perhaps a better measure of court ideology would lead more accurate assessments of *how much* people rely on partisanship when evaluating their state court systems.

Perhaps the least ideal measure used thus far is public perceptions of judicial impartiality, my dependent variable. Quite often in the judicial politics literature, measures of support for courts fall neatly into measures of “specific support” and measures of “diffuse support” (also known as legitimacy). Specific support is support for a court and its justices based on the decisions it has been making lately. It is temporary, fleeting, and based on immediate considerations toward a court that the person happens to be feeling that day. Diffuse support, on the other hand, is deeply rooted. It is often measured using questions about whether people would be willing to abolish the court, change its jurisdiction, remove unpopular judges from office, and how political the branch appears. My measure does not fit neatly into either concept. Gibson (2008) has argued that public perceptions of impartiality are the “key source” of the institutions legitimacy (i.e. its levels of diffuse support) and I have so far made such an assumption. But I have not used the conventional legitimacy battery and in failing to do so, I leave myself open to the criticism of how my findings fit into the literature, at large.

Limitations of measures are but one reason to not completely buy into the results I have so far presented. Another is that I have not presented truly *causal* evidence of my findings. True, it may be difficult to think of an alternative scenario for the results presented in Chapter III. And the thought that people are simply responding to the ideology of the state they live in (and are hence merely guessing at the high court’s ideology) is already controlled for. What this dissertation is missing, however, is an internally valid test of my central causal theory. Can people take information about a court, understand what is being told to them about that court, and adjust their evaluations of those courts in the expected way?

One final limitation of my previous chapter is that I cannot reasonably test how people view an ideologically balanced court. What my previous chapter truly says is that as courts become increasingly more conservative, Democrats will view them as less impartial while Republicans will view them as more impartial. It just so happens that Democrats and Republicans have equal predicted values of impartiality in the center. One way to interpret that finding is that perhaps people *are trying* to evaluate the court based on partisanship but fail to do so given its inconsistent signals. But another way to interpret that finding is that both Democrats and Republicans view such courts in a positive (i.e. impartial) manner because they are acting about as nonpartisan as they can get. In other words, it could be the case that Democrats and Republicans view ideologically balanced courts in an equally *negative* light or it could be the case that partisanship plays no role and that ideologically balanced courts are viewed in an equally *positive* light. Do people tend to focus more on their victories (à la “positivity bias”) or on their defeats (à la “negativity bias”)?

Due to imprecise measures, lack of internally valid evidence of the proposed causal mechanism, and questions previous chapters cannot address, I conducted a survey experiment that should answer most of these concerns. The experiment presents readers with a vignette about a general state supreme court at the end of its term. The court issued four decisions and depending on the court one reads about, the decisions were all liberal, all conservative, or half liberal and half conservative. I also vary the level of judicial consensus with unanimity, split, and no information about how the judges voted (i.e. the control) being the possible outcomes.

This experiment should alleviate concerns that may arise from the previous chapter for the following reasons. First, I can control the information environment. The vignettes are quite explicit about what the court’s ideological leanings are. There is an extremely liberal court, an

extremely conservative court, and one that issues exactly half liberal and half conservative decisions. Measurement of the court's ideology is controlled. A survey experiment also allows me to ask questions that are more in line with the standards in the literature. I ask a series of questions about how impartial the court is perceived to be, but also the full legitimacy battery of questions promoted by Gibson and colleagues (Gibson, Caldeira, and Spence 2003a). Ambiguity surrounding the precision of measurement of court ideology is controlled for and imprecision of measurement of support for courts is more precisely asked.

With an experiment, I can test whether the information about a court is being received through manipulation checks and how people respond to that information. This experiment thus provides a corroborating test of the causal mechanism I propose – that court decisions shape public perceptions and support for the judicial branch. And finally, by exposing people to the three “extremes” – a liberal, conservative and perfectly ideologically balanced court – I can truly test where the balanced courts stand in relation to the other courts. Are Democrats and Republicans more likely to *reward* an ideologically balanced court for its pleasing decisions or *punish* the court for its displeasing decisions? That can be tested using these experimental vignettes, and I do so here.

To be clear, the question I seek to address in this chapter is the roughly the same as the previous chapter: to what extent are public perceptions of courts based on the decisions they make? Prior research has found that the legitimacy of the United States Supreme Court remained intact even after its controversial ruling in *Bush v. Gore* (2000) (Gibson, Caldeira, and Spence 2003b), and most research suggests support for courts is grounded in factors unrelated to the decisions it makes (Caldeira and Gibson 1992). I argue that judges are able to signal whether their court is more legalistic or partisan based on the decisions they make. For these signals to be

influential, they must be consistent and regularly occurring. Prior work almost exclusively focuses on the effects of single, often landmark, decisions handed down by the United States Supreme Court. Not only do people bring in their prior beliefs about the Court in evaluating any of its decisions (often in an experimental setting), those beliefs are unlikely to change due to a *single* decision. Moreover, it is hard to believe the Court is always bitterly divided along partisan lines when, for example, the media often cover unanimous decisions made by the Court in any given term. I argue that when courts send a clear partisan signal by issuing numerous controversial decisions in a single ideological direction, courts will be evaluated in a partisan manner. I also argue that courts can send a legalistic signal through issuing numerous unanimous decisions. Courts that obscure their partisan nature through being ideologically balanced and unanimous in their decisions should be viewed as more impartial than any other kind of court.

I find that people view ideologically balanced courts as more impartial than any other court. While conservatives tend to like conservative courts and liberals tend to like liberal courts, such courts lose support from those who are being left out of the court's decisions. Only through ideological balance can courts maintain support from both Democrats and Republicans. However, I find no evidence that unanimous courts are perceived as more impartial than more divided courts. Not even ideologically balanced courts are bolstered by having a series of unanimous decisions.

Nevertheless, ideological signals sent by courts matter for how people perceive them. And my findings imply that Supreme Court justices, while never too concerned about a single unpopular decision, should not stray too far away from the center of the ideological spectrum in their overall decision output. It is precisely ideological balance that leads people to perceive the High Court as an impartial institution.

On the Importance of Court Impartiality

On April 29, 2015, the U.S. Supreme Court upheld a Florida law prohibiting judges from personally soliciting campaign contributions against a First Amendment constitutional challenge. Chief Justice John Roberts, writing for the majority, expressed the judgment that “public perception of judicial integrity is a ‘state interest of the highest order’.”²⁷ This decision surprised many Court watchers since Roberts tends to side with his conservative colleagues in *striking down* campaign finance restrictions as being in direct conflict with the free speech principles of the First Amendment (e.g. *Citizens United v. FEC* (2010) and *McCutcheon v. FEC* (2014)) (Smith and Amunson 2015). According to two prominent constitutional lawyers, Roberts’ most recent decision on the matter seems to be motivated by the belief that “judges are not politicians,” and states can take extraordinary measures to ensure the American public believes that as well (Smith and Amunson 2015, quoting *Williams-Yulee v. Florida Bar*, at 20).

Concern about how courts are perceived by the public is not simply a worry expressed by current Supreme Court justices. If preserving a fair and impartial judiciary is a state interest “of the highest order,” then numerous organizations should be devoted to that cause. The primary mission of the national organization *Justice at Stake* is to keep “courts fair and impartial.” The *Brennan Center for Justice*, another national organization whose mission statement includes “equal justice for all,” routinely publishes reports on the influence of money in judicial elections. Finally, former Associate Justice Sandra Day O’Connor often writes and speaks on the topic of judicial elections, arguing elections most certainly degrade the integrity of the court system (O’Connor 2010).

²⁷ *Williams-Yulee v. Florida Bar*, 575 U.S. ____ (2015), at 10

Even political scientists argue that a cornerstone of public support for courts is perceived impartiality (Gibson 2008). Generally, the link between perceived impartiality of a court and its legitimacy is generally assumed in the literature. Zink, Spriggs, and Scott (2009) write, “Since [court] legitimacy is so closely identified with impartial adjudication, it must convince the public that legal outcomes result from the application of neutral decision-making criteria” (910). Yet, scant evidence suggest courts are capable of convincing the public of anything (Marshall 1987).

Moreover, we do not know what it takes to convince people that courts are making decisions based on neutral criteria. Some scholars suggest courts that stay out of the political spotlight are better able to cloak their decisions in legalistic principles (Hibbing and Theiss-Morse 1995). Others suggest particular decision attributes like following precedent (Zink, Spriggs, and Scott 2009) or unanimity (Salamone 2014; Zink, Spriggs, and Scott 2009) signal court impartiality. Still, others have speculated it is the ideologically balanced nature of the United States Supreme Court that people find most appealing (B. L. Bartels and Johnston 2013; Gibson and Nelson 2014a).

The empirical findings in this line of research merely suggest a link between institutional or decision attributes and perceived impartiality, because the thrust of this research has generally examined the extent of court power to get people to agree with, or at least acquiesce to, their decisions. While understanding whether courts are capable of persuading the public to agree with court opinions and view them as legitimate is important, this question is not the purpose of this particular project. Rather, I seek to understand how people come to view courts as impartial and whether courts themselves have any role in shaping these views. Acquiring a more thorough understanding of why people view courts in a certain light helps to address conflicting findings in the literature regarding the extent of courts’ power to persuade.

Public Perceptions of Courts: Contrasting Theories

Do People Recognize an Ideologically Extreme Court as Such?

With few exceptions (Bartels and Johnston 2013), there is very little evidence that people use partisanship or ideology when evaluating the U.S. Supreme Court (Caldeira and Gibson 1992; Gibson, Caldeira, and Spence 2003b; Gibson and Nelson 2014a). Democrats and Republicans, liberals and conservatives both hold the court in relatively high regards, and any differences between the two groups are negligible. This consistent finding is used to suggest that people evaluate courts differently. The median justice on the Court *leans* conservative. The overall decision output of the Court tends to *lean* conservative. So, conservatives should grant the Supreme Court more legitimacy than liberals. This is just not the case (Gibson and Nelson 2014a).

Some scholars even suggest that the public evaluates the Court differently than they do the other branches of government. As evidence, one could point to the fact that how we learn about courts is different than how we learn about the other branches. Those branches are political, and to be “democratic” both the legislative and executive branches should represent the people in a faithful manner. An analysis of high school textbooks on portrayal of the Supreme Court imply that courts are nearly universally portrayed in a venerable light. In fact, actual impeachment (as was the case with Justice Chase), jurisdiction manipulation or “court-packing” plans (as was threatened during the New Deal Era) or even popular resistance (as was the case in the South after *Brown*) are seldom discussed as legitimate ways of checking the Court (Donnelly 2009).

Instead, the Court's rulings are final and ought to be respected as such. Often textbooks refer to the justices on the U.S. Supreme Court not only as interpreters of the Constitution but the actual guardians of it (Donnelly 2009, p. 983). If these stories about the Court are internalized at a young age, feelings of immediate deference to Court rulings might be the reason why the public tends not to evaluate the Court based on partisanship. Support for the Court has nothing to do with how the Court is ruling and everything to do with legal culture in the United States being characterized as heavily deferential to the institution charged with maintaining the rule of law and protecting the Constitution.

Exposure to courts' legitimizing symbols is often mentioned as a reason courts receive high levels of support. When they cannot fly under the public's radar (which might contribute to a lack of partisan evaluations of the court - Hibbing and Theiss-Morse 1995), these symbols of law might be the reason courts are viewed as more impartial. Those exposed to courts might realize that they are truly different than the other branches and purge political considerations from how they evaluate the judicial branch. And, unlike the stories told to us as children, this theory could easily be generalized to all courts, not just the Supreme Court. This theory is supported by the widespread finding that having greater knowledge of the courts is to evaluate them favorably (Caldeira and Gibson 1992; Gibson, Caldeira, and Baird 1998) and by recent experimental findings that examine the effects of showing people particular judicial symbols (Gibson et al. 2010). People, therefore, may fail to recognize an ideologically extreme court due to the deeply rooted belief in the "myth of legality" (Casey 1974).

In a sense, this is a theory about whether or not the manipulation check in my experiment will be successful. Given a court that issues four liberal or conservative decisions, will people reading these vignettes be willing to acknowledge the court as doing so? Whether due to

socialization or exposure to legitimizing symbols, previous work might suggest that the public has been trained to view courts as nonpartisan institutions and might fail to acknowledge a liberal or conservative court. The findings from my previous chapter, however, suggest that while courts may have more discretion in their decisions before partisan attitudes are activated, *extremely* liberal and conservative courts are recognized as such – because public evaluations of such courts appear to fall along party lines. This cannot happen if people are incapable of recognizing the liberal or conservative nature of their courts.

How Do People Respond to an Ideologically Biased Court?

If people cannot recognize differences in the ideological leanings of courts, then evaluations of such courts will never be dependent on an individual's ideology or partisanship. Since this scenario is unlikely to be the case – meaning that people are going to be capable of distinguishing between a liberal, conservative, and ideologically mixed court – what happens when people read about an ideologically extreme court?

Courts that issue decisions in only one ideological direction may be viewed as biased. This would imply that ideologically balanced courts are the most impartial courts and as courts become more extreme, all people (Democrats and Republicans alike) will dislike the partisan tenor coming from the court's decisions. In other words, if the American public cares about impartiality and courts are not acting impartially, people will view those courts as less impartial and less legitimate – *even if* they are issuing pleasing decisions. It would be like if an umpire starting issues *too many* favorable calls. Fans might approve of the outcome, but perhaps they will be less inclined to view the umpire as impartial and less inclined to view the “win” as a legitimate one. People like winning – but they also like winning fairly. There is some precedent

for this line of argument in the procedural justice literature. People respect the process more when the process is perceived as fair. Even criminals sentenced to harsh prison sentences express more positive views of authorities when they believe their story was listened to and the judge was unbiased (Tyler 1984).

Political psychologists offer an alternative theory: motivated reasoning. Ideologically extreme courts might be the only courts capable of sending a partisan signal strong enough for people to evaluate court performance and adjust their deeply rooted support for the court based on one's partisan leanings. The single study examining motivated reasoning and court decisions asked lay people to evaluate a single decision by the court across eight different characteristics including legitimacy and persuasiveness of the decision (Simon and Scurich 2011). They found strong support for a "coherence effect" (Simon 1998). People form generally positive or negative judgments about a particular decision regardless of the precise question being asked. In other words, "a decision that is deemed acceptable will be evaluated favorably across the board, as being thoughtful, persuasive, legitimate, and the like" (Simon and Scurich 2011, p. 711). Courts are not viewed as "biased" when the outcome is pleasing to the person. A liberal evaluating an extremely liberal court will most likely believe that court is impartial due to motivated reasoning.

Can people "snap out" of this motivated reasoning when asked to evaluate the court itself? The answer is unclear. But, it stands to reason that if a court sends a clear partisan cue, perhaps the court will be evaluated like all other branches of government – based on partisanship and ideology. And, in that world, Democrats will view liberal courts as significantly more impartial, fairer and legitimate than Republicans evaluating that same court. Partisans will be

motivated to view a court as impartial when that court signals decisions congruent with one's partisanship.

Discovering how people actually view courts based on the decisions they make may start to explain inconsistencies in the literature regarding the effects of decisions on legitimacy and acceptance of court decisions. We perhaps assume that ideologically unbalanced courts are going to be viewed as lacking impartiality across the board. This, along with the theory that courts are uniquely immune from being evaluated based on partisan grounds needs more rigorous study since plausible theories exist to suggest people may not always interpret court signals the way we would intuitively expect.

My findings in the previous chapter suggest that liberals will view an extremely liberal court as more impartial (and legitimate) than conservatives viewing that same court. However, there is an alternative scenario: both liberals and conservatives will recognize that ideologically extreme courts are *not impartial* and, by extension, *not legitimate*. This possibility would truly make public evaluations of courts unique.

What Does Unanimity Actually Signal?

On December 23, 2015, the Kansas Supreme Court unanimously struck down a law that stripped the high court of its power to appoint chief district judges across the state as an unconstitutional infringement of the Kansas Supreme Court's authority over the judicial branch. Almost a year earlier, the Kansas Supreme Court unanimously overruled a secretary of state decision that would force a Democratic candidate's name to be placed on the ballot for the 2014 general election, even though the candidate wanted to bow out and lend his support to the Independent candidate running. A recent poll suggests that the Kansas Supreme Court has a

higher approval rating among Kansans than both Governor Sam Brownback and the Kansas state legislature. Is that perhaps because it often speaks as one voice, protecting both its institutional integrity and the rights of all Kansans?

Conventional wisdom suggests unanimity signals legality. It is interpreted as such in most studies examining its effects on the American public (Gibson, Caldeira, and Spence 2005; Marshall 1987; Zink, Spriggs, and Scott 2009). However, the results found are often mixed. Some find conditional positive effects of unanimity on how people evaluate courts and their decisions (Zink, Spriggs, and Scott 2009). Others find unanimity does not influence how people view the judicial branch (Gibson, Caldeira, and Spence 2005; Marshall 1987). Consistent throughout this research is the theory that unanimity should positively influence public evaluations of the courts because unanimity suggests the decision made was based on law, not politics. It is supporting evidence for the school stories about the United States Supreme Court as an apolitical intuition and is an attribute often highlighted in news reports on court decisions.

Contrary to conventional wisdom, the latest research on unanimity and acceptance of moderately salient decisions suggest that *dissensus* generates greater acceptance of the decision (Salamone 2014). The theory suggests that people might believe the court considered their issue viewpoint when making its decision. An entire strand of literature on procedural justice suggest that people view institutions as fair when they feel like their voice was heard (Tyler 2001). Unanimity might signal legality, but it could also signal to those who would otherwise disagree with the court's decisions that the deck is stacked against them and that their views were not properly considered by the court.

Alternatively, unanimity might interact with ideological balance. For example, a unanimous court that issues decisions heavily in one ideological direction might exacerbate the

belief that the court is biased. Unanimity might, however, bolster support for the Court's decision when the court is already perceived as balanced in its decision-making. A balanced court could make controversial decisions in a unanimous manner. If this occurs, it is hard to imagine how people would think of unanimity as anything other than a signal of legality.

Unlike previous work, including the mostly experimental work on this topic, I try to capture through my vignettes the *ideological balance* of the court. This is a critical component of how people see their courts in reality. Courts are not institutions making a single decision in a vacuum. In fact, state courts issue decisions on a regular basis and if media coverage of state politics is relatively constant, people will form some sort of opinion about the state high court. Perhaps the effect of unanimity is contingent on the type of court one is generally exposed to – one that is more ideologically balanced or one that could easily be classified as liberal or conservative.

Results from my previous chapters suggest very clear hypotheses. Not only will people evaluate partisan courts differently than ideologically balanced courts, but unanimity should, overall, positively affect public perceptions of court impartiality. Data limitations prevented me from testing some parts of my causal theory and whether or not unanimity interacts with ideological balance. The strain on the statistical hierarchical linear models would have been noticeable since a four-way interaction devours degrees of freedom at an alarming rate and estimation of the model would be unlikely to converge. Providing respondents with vignettes that vary these key attributes is not only an internally valid test of the theories presented, but also one that will not require more from the data than is possible.

In the next section, I describe the vignettes, the experimental manipulations, and the dependent variables being examined. I not only test differences in public perceptions of

impartiality, but to assuage fears that this dependent variable is too far removed from court legitimacy as currently measured, I include the full battery of widely accepted questions to measure people's deeply-rooted support for courts – and in this case asking people about the court they just read about.

Data and Methods

I run a 3×3 factorial experimental design using Amazon.com's Mechanical Turk.²⁸ Respondents were randomly exposed to one of nine possible vignettes in which I manipulated both the overall ideological output of the state supreme court as well as the level of judicial consensus. As for the ideological output treatment, respondents were exposed to either a court that issues four decisions that would please liberals, four decisions that conservatives would favor, or a “mixed” court that issued two decisions that liberals would like and two decisions that self-identified conservatives would like. As for the judicial consensus treatment, respondents were exposed to either a court that issued all four decisions unanimously (7-0), all four decisions in a divided manner (4-3), or a “control” court where no information about how the judges voted was provided. The unanimous, liberal court vignette looked like this:

State High Court Issues Four **Unanimous** Landmark Decisions

Liberals Pleased with Outcomes

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues

²⁸ Although some prominent methodologists have expressed concern about the generalizability of experiments using convenience samples like the one provided by the Turk (Gelman 2013), recent research has found substantively similar results from using the Turk convenience sample as from using a nationally representative sample (Berinsky, Huber, and Lenz 2012; Mullinix et al. 2015).

affecting the state and its residents. Observers have said that the court's slate of decisions stand out for both the **liberalism** of the outcomes and the **unanimity** of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The court **unanimously** decided (7-0) that police **could not** obtain cell phone billing and call records without first obtaining a warrant through a judge.
- They (7-0) **upheld** a jury's guilty verdict against a local police officer for the fatal shooting of a man, **in spite** of the police officer's claim that he was threatened.
- The supreme court (7-0) also **struck down** a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they **unanimously** (7-0) **upheld** restrictions on the natural gas industry under the state constitution's clause **protecting the "health and well-being" of its citizens**.

These decisions were expected by many court watchers, given the overall **liberal** bent of the high court. The court in recent years has also regularly passed down **unanimous** rulings, indicating the overall **high** level of consensus of the court.

Words in blue were replaced by words that indicated a conservative outcome for the conservative court, and the mixed court contained the first and last liberal decisions and the second and third conservative decisions. Unanimity was replaced by words that indicated a divided court (such as divided and split) and 7-0 was replaced with 4-3 to indicate a split decision. The control court contained no reference to how justices voted in each case.

Results

Part I: Court Impartiality

I included three questions as manipulation checks. The first question asked respondents if the court they just read about issued decisions that were mostly liberal, mostly conservative, or about half liberal and half conservative. The second question asked respondents if the court they just read about issued decisions more favorable to police relative to individuals, individuals relative to police, or whether one decision was favorable to individuals while the other was more

favorable to police. This second manipulation check question tapped into whether or not the respondent either read the fake news story or was savvy enough to extrapolate from the headline about what the rulings would likely be. The third question asked respondents to recall the level of judicial consensus with answer choices being either unanimous, split, or no information on how the justices voted was provided. Table 1 provides the percent of respondents in the sample that correctly identified each kind of court and the percent of respondents who were able to correctly classify their court based on correct answers to all three manipulation check questions.

The most difficult manipulation check question to correctly assess was, oddly enough, the correct ideological placement of the court respondents read about, more so than answering the manipulation check about the actual decisions made. Perhaps this is because respondents are reluctant to believe the court made ideologically charged decisions (Baird and Gangl 2006).

Regardless, the manipulations appear to be working. Nearly 70% of the total sample correctly assessed their court's ideological tenor, over 70% correctly assessed the outcomes of the decisions made by the court, and over 90% of respondents correctly assessed the overall level of judicial consensus.

Table 1 also contains percent of respondents who answered the reading check questions correctly. These questions asked respondents about their favorite Chief Justice and their favorite ice cream flavor. At the end of the question people were asked to select John Jay and Cookie Dough as being correct. Nearly all of the respondents appeared to be reading the survey questions and taking them seriously as evidenced by the statistic that nearly 95% of people taking the survey answered both reading check questions, one of which was placed in the middle

of the survey, right after the manipulation check questions, and the other reading check question was placed at the very end of the survey.²⁹

Table 1: Manipulation and Reading Checks		
	Full Sample	Attentive Sample
<i>Manipulation Checks</i>		
<i>Ideology Manipulation Check</i>		
Liberal	64.59	66.35
Conservative	70.38	70.53
Mixed	74.70	77.11
Ideology Manipulation Check Passed	69.94	71.38
<i>Decision Content Manipulation Check</i>		
Pro-Police Decisions	76.31	78.64
Anti-Police Decisions	76.33	77.26
Mixed Police Decisions	66.43	68.44
Decision Content Manipulation Check Passed	72.91	74.71
<i>Judicial Consensus Manipulation Check</i>		
Unanimous	91.98	93.96
Divided	95.04	96.34
Control	89.18	91.87
Judicial Consensus Manipulation Check Passed	91.94	93.89
All Manipulation Checks Passed	53.53	55.77
<i>Reading Check Questions</i>		
<i>Favorite Chief Justice</i> (John Jay)	94.98	
<i>Favorite Ice Cream Flavor</i> (Cookie Dough)	98.66	
Answered Both Correctly	94.63	
Percent of respondents who either correctly identified the type of court they read about or correctly answered the reading check question in the columns.		
Note: Attentive sample in column two refers to the sample who answered both reading check questions correctly (i.e. 94.63% of the total sample).		

The primary purpose of this chapter is to examine the extent to which the results in the previous chapter could be replicated in a more internally valid research setting. My dependent

²⁹ I also provided the same statistics for the “attentive sample,” which is the 95% of respondents who correctly answered both reading check questions. Not surprisingly, the percentage of respondents who correctly identified the court they read about went up.

variable in that chapter was public perceptions of court impartiality. I used available measures in the 2006 Judicial Independence Survey to best capture this particular concept. Here, I use question wording that directly taps into whether people believe the court they read about acted in an impartial manner by first directly asking people about that very topic: to what extent do you feel that the state supreme court was fair and impartial when issuing its rulings. Answer choices included: Not at All, Small Extent, Moderate Extent, and Great Extent. Like before, I use a mean index of questions that tap into the concept of how impartial that court appears. The rest of the questions used in the index ask people to what extent they believed the court and judges considered the opinions of people who share the respondents' viewpoints, strictly followed the law when making its decisions, legislated from the bench rather than interpreted the law, were influenced by their personal political viewpoints and whether they were politically motivated in their rulings.³⁰

Table 2 presents results of the experiment. Model 1 contains regression coefficients for the most basic model, controlling for both treatments and interacting the ideological court treatment with a seven-point ideology scale ranging from extremely liberal to extremely conservative. The results are encouraging. The statistical interaction between the ideology of the court that respondents were exposed to and their own ideology is statistically significant.

Figure 1 is a graphical depiction of the marginal effects for Model 1. For people who were exposed to the liberal state supreme court, increasing individual conservative ideology leads to viewing the court as increasingly less impartial. Similarly, for people exposed to the conservative court, increasing conservative ideology leads to viewing the court as increasingly

³⁰ For a complete list of the questions used, see the Appendix. The scale holds together extremely well with a Cronbach's alpha $\alpha = .83$. This statistic would not be improved by the elimination of any of the individual items used.

more impartial. But for those exposed to an ideologically mixed (or balanced) state supreme court, increasingly conservative ideology has no statistically significant effect on how impartial one may view the court.

Table 2: Predicting Perceptions of State Court Impartiality			
	Model 1	Model 2	Model 3
Treatment: Ideology of Court (Mixed Court Omitted)			
Liberal Court	.222* (.028)	.222* (.028)	.232* (.029)
Conservative Court	-.379* (.028)	-.383* (.028)	-.386* (.029)
Ideology of Respondent	-.002 (.005)	-.002 (.005)	-.001 (.005)
Treatment: Ideology of Court × Ideology of Respondent			
Liberal Court	-.059* (.007)	-.060* (.007)	-.064* (.008)
Conservative Court	.051* (.007)	.051* (.007)	.049* (.008)
Treatment: Level of Judicial Consensus (Control Court Omitted)			
Divided	-.016 (.012)	-.014 (.012)	-.010 (.013)
Unanimous	-.010 (.012)	-.005 (.012)	-.005 (.013)
Age		-.001 (.000)	-.001 (.000)
Education		.008* (.004)	.008* (.004)
Female		-.018† (.010)	-.019† (.010)
Nonwhite		-.016 (.012)	-.018 (.012)
Knowledge of State Courts		.046† (.024)	.046† (.025)
Constant	.577* (.021)	.568* (.029)	.569* (.030)
<i>N</i>	1713	1689	1601
<i>Regression Estimates in Parantheses</i>			
*p < .05; † p < .10			

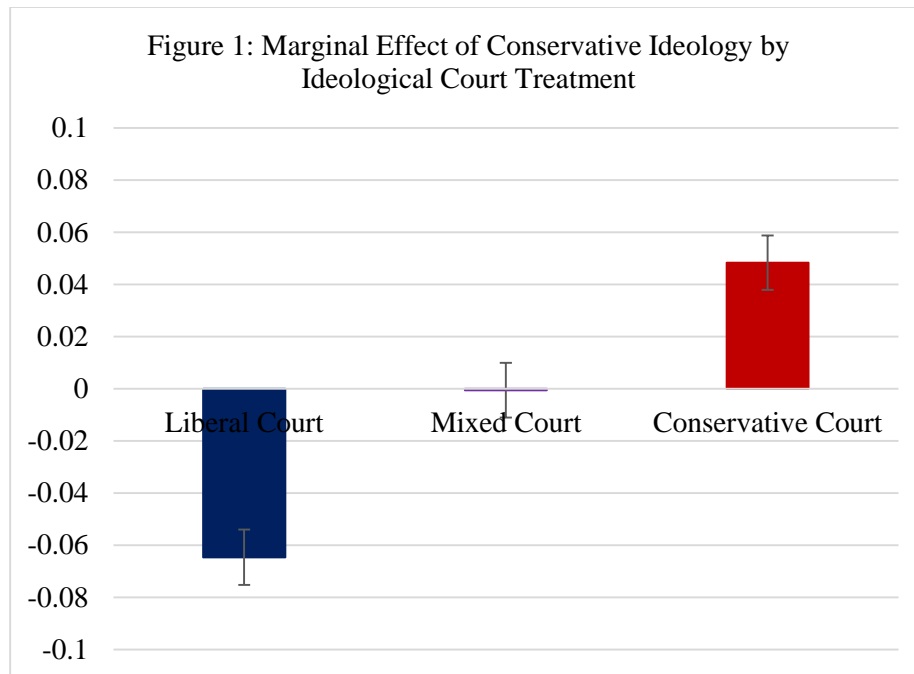
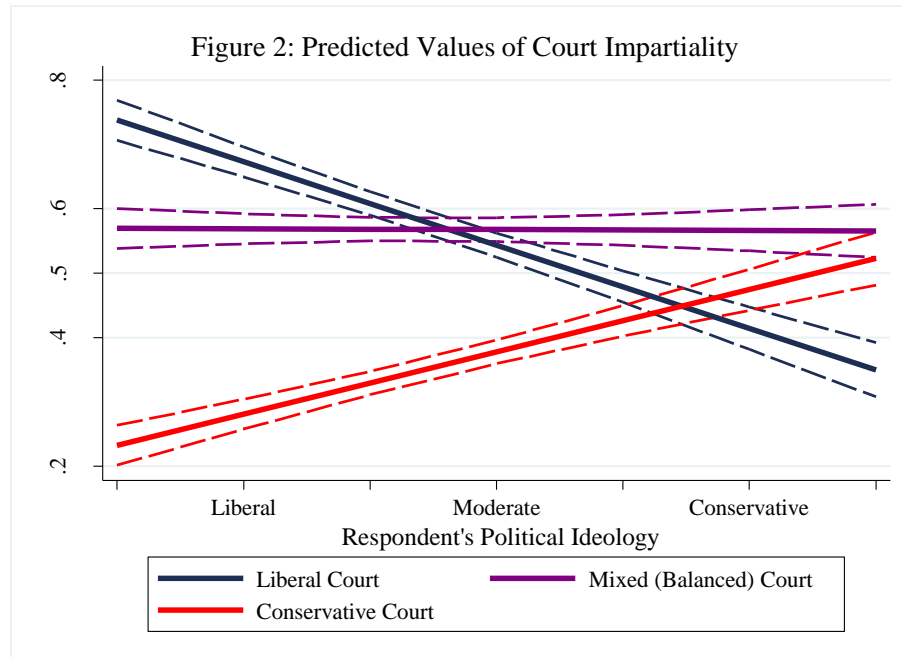


Figure 2 depicts the predicted values of court impartiality for each of the three treatments across the range of political ideology. Figure 2 complements the story that the marginal effects in Figure 1 would suggest. For people exposed to the liberal court, liberals tend to view that court as near perfectly impartial, while conservatives tend to view that court as nearly completely lacking impartiality. The differences between conservatives and liberals when it comes to how they view a conservative court somewhat mirror those exposed to the liberal court, but the effect is less substantial. Conservatives view conservative courts as more impartial than liberals, but instead of viewing the court as nearly perfectly impartial, conservatives view a conservative court as slightly more impartial than biased, while liberals view a conservative court as slightly more biased than impartial.

When exposed to the ideologically balanced court, liberals and conservatives have relatively high perceptions of court impartiality. Further there are no differences between those who identify as extremely liberal and those who identify as extremely conservative in their overall perceived levels of court impartiality.



The judicial consensus treatment appears to have no effect on public perceptions of court impartiality. I do explore potential heterogeneous treatment effect later, but under this model specification, whether a court was divided or unanimous had no effect on how people view the impartiality of the court. The court decisions in the vignette were all salient and the political frame may have completely dominated the potential legalistic frame. That said, failure of the treatment cannot be attributed to people not understanding the information presented. In fact, this particular manipulation in the vignette received the highest comprehension with over ninety percent of the sample correctly identifying their court as being either divided, unanimous, or no information about the level of judicial consensus.

Models 2 and 3 are presented as robustness checks. Model 2 includes as controls all available demographic information about the respondents including their age, gender, race, education, and an index of the respondent's knowledge of their *own* state supreme court, the highest court in the state the respondent currently lives in. Results across models are not only statistically indistinguishable from each other but the substantive interpretation of results remains

unchanged. The effects are bolstered slightly, after eliminating the portion of the sample that did not pass both of the reading check questions, as would be expected (see Model 3). Nevertheless, the results are so strong that even a hundred participants paying questionable attention to the survey could not mollify the heterogeneous treatment effects of court ideology on public perceptions of court impartiality.

A Note about the Measures of Legitimacy

Although the primary focus of this chapter is to examine the extent to which public perceptions of court impartiality are dependent on ideology, I (and others) have argued that the very bedrock of court legitimacy rests on people believing courts are impartial institutions. While testing the link between public perceptions of court impartiality and legitimacy (also known as diffuse support) is beyond the scope of this project, I can test whether the effects of court ideology also shape diffuse support for the court in the vignette. Gibson, Caldeira, and Spence (2003a) has produced a well-respected list of questions that capture overall loyalty to a particular court. Their current wording references the U.S. Supreme Court. These questions have been slightly adapted to remind respondents that they are reacting to the state supreme court they just read about, not their own state supreme court. I have also reworded some questions to remove the double-barreled portions. Below I justify these changes.

Table 3: Legitimacy Question Wording

Question Number	Original Wording (Gibson 2011)	Rewording
1	If the U.S. Supreme Court started making a lot of decisions that most people disagree with, it might be better to do away with the Supreme Court altogether.	It might be better to do away with that state supreme court altogether.
2	The right of the Supreme Court to decide certain types of controversial issues should be reduced.	The right of that state supreme court to decide certain types of controversial issues should be reduced.
3	The U.S. Supreme Court gets too mixed up in politics.	That state supreme court gets too mixed up in politics.
4	Judges on the U.S. Supreme Court who consistently make decisions at odds with what a majority of the people want should be removed from their position as judge.	Judges on state supreme courts who consistently make decisions like that court should be removed from their position as judge.
5	The U.S. Supreme Court ought to be made less independent so that it listens a lot more to what the people want.	That state supreme court ought to be made less independent.
6	It is inevitable that the U.S. Supreme Court gets mixed up in politics; therefore, we ought to have stronger means of controlling the actions of the U.S. Supreme Court.	We ought to have stronger means of controlling the actions of that state supreme court.
7	Supreme Court justices are just like any other politicians; we cannot trust them to decide court cases in a way that is in the best interests of our country.	We cannot trust those judges to decide court cases in a way that is in the best interests of the people.

For questions 2 and 3, I simply changed the referent from “the Supreme Court” or “the U.S. Supreme Court” to “that state supreme court.” The other five questions had some additional changes designed to better capture the concept of diffuse support.

For question 1, I eliminated the dependent clause of the conditional statement for two reasons: First, because the condition adds unnecessary heterogeneity in the meaning of respondent answers. Some people might respond that they strongly disagree with that statement simply because abolishing the Supreme Court is an extreme proposal. Other people might respond that they strongly disagree with abolishing the Supreme Court when it makes decisions

that “most people” disagree with, perhaps because they view themselves as holding one or more minority viewpoints. Therefore, it would not be in their best interest to have the Supreme Court abolished because its decisions would be relatively consistent with their views.

On the one hand, people could be agreeing or disagreeing with that statement based on deeply rooted support for the Court. On the other hand, they could be agreeing or disagreeing with that statement based on whether or not the respondent believes the Court will be making decisions that he or she personally agrees with, which is a separate concept in the literature – specific support – or support tied to the immediate satisfaction with the policy outputs of the Court.

Second, the added condition might create additional confusion for respondents. Respondents were presented with either a liberal, conservative, or balanced court. “If that state supreme court started making a lot of decisions that most people disagree with” might already imply that the hypothetical court in the news story is *not* making decisions that a lot of people already disagree with. That might be true if the respondent believes a liberal court is in a liberal state. But what if the respondent believes that the liberal court could be *their* state supreme court and they live in Alabama, for example? Respondents might not know exactly how to answer and frustrated respondents are more likely to satisfice than provide accurate responses. Clauses like the one above create unnecessary confusion and have been eliminated.

A similar problem (as question 1) presents itself in question 4. Question 4 originally reads, “Judges on the U.S. Supreme Court who consistently make decisions at odds with what a majority of the people want should be removed from their position as judge.” To avoid response heterogeneity about what majority they are thinking of, if they consider themselves in the majority, or what state they presume this court comes from, I simply ask: “Judges on state

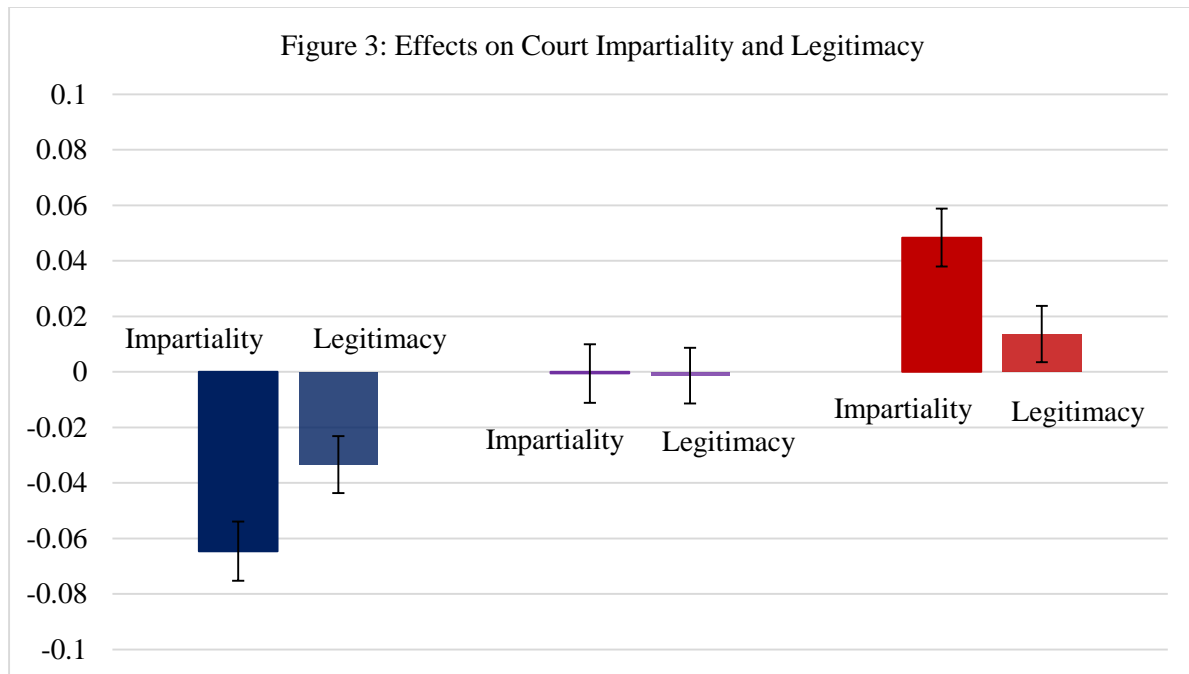
supreme courts who consistently make decisions like that court should be removed from their position as judge.” Same goes with question 5.

Question 6 contains two clauses and respondents could agree with one clause but not the other. “It is inevitable that the U.S. Supreme Court gets mixed up in politics” is most certainly a true statement. But, *loyalty* to the Court comes in in the next phrase: “therefore, we ought to have stronger means of controlling the actions of the U.S. Supreme Court.” I removed the qualifying clause and the “therefore” to more simply tap into a respondent’s loyalty to that state supreme court. A similar problem exists with question 7. I omitted the qualifying clause and changed “our country” to “that state.” The scale, as amended, holds together incredibly well with a Cronbach’s alpha $\alpha = .89$.

Part II: Court Legitimacy

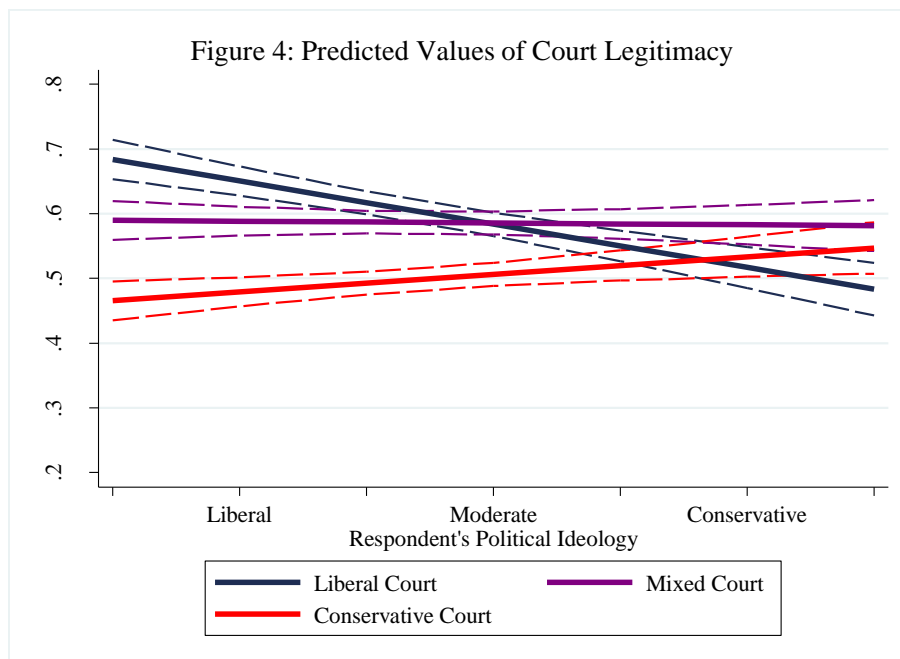
The results from the regressions of court legitimacy on the treatments are presented in Table 3. There are a few aspects to note. The first is that the statistical significance of the court ideology treatment is the same across all three additional models, and that the judicial consensus treatment remains statistically insignificant. The second is that effect sizes are smaller. In Figure 3, it is clear that coefficients for court legitimacy are significantly smaller compared to the coefficients for public perceptions of court impartiality.³¹

³¹ The dependent variables are on the same scale, recoded to range from 0 to 1.



Although the effect may be smaller, the substantive significance of these results should not be ignored. Liberals support liberal courts; conservatives support conservative courts. But ideology is completely unrelated to the legitimacy of the more ideologically balanced court.

In Figure 4, the predicted values of court legitimacy complement the other figures presented. The effect of court decisions is significantly attenuated when looking specifically at the dependent value of court legitimacy. The results suggest ideologically balanced courts are often perceived as the most legitimate institutions by people across the ideological spectrum.



A proper measure of legitimacy is one that captures deeply rooted support for an institution. No respondent could have developed anything other than a first impression of the court they read about. It is encouraging that people are not immediately ready to abolish a court or change its institutional structure – even if the court appears to be an ideologically extreme one.

When it comes to court legitimacy, individual covariates I include as controls are statistically significant. More education and state court knowledge leads to higher levels of perceived legitimacy. Women and nonwhites are less likely to afford courts legitimacy – across the board. These findings imply that some variation in diffuse support is certainly dependent on factors unrelated to what courts are doing.

Table 4: Predicting Perceptions of State Court Legitimacy			
	Model 4	Model 5	Model 6
Treatment: Ideology of Court (Mixed Court Omitted)			
Liberal Court	.126* (.028)	.130* (.028)	.127* (.028)
Conservative Court	-.139* (.028)	-.144* (.028)	-.156* (.028)
Ideology of Respondent	-.001 (.005)	-.001 (.005)	-.003 (.005)
Treatment: Ideology of Court × Ideology of Respondent			
Liberal Court	-.032* (.007)	-.034* (.007)	-.033* (.007)
Conservative Court	.014* (.007)	.014* (.007)	.017* (.007)
Treatment: Level of Judicial Consensus (Control Court Omitted)			
Divided	-.004 (.012)	-.001 (.012)	-.002 (.012)
Unanimous	-.011 (.012)	-.006 (.012)	-.005 (.012)
Age		.001 (.000)	.000 (.000)
Education		.026* (.004)	.025* (.004)
Female		-.032* (.010)	-.035* (.010)
Nonwhite		-.034* (.012)	-.036* (.012)
Knowledge of State Courts		.066* (.024)	.088* (.024)
Constant	.596* (.021)	.495* (.029)	.511* (.029)
<i>N</i>	1713	1689	1601
<i>Regression Estimates in Parantheses</i>			
*p < .05; † p < .10			

I would like to examine one last question with the data available. Although unanimity does not appear to have a uniform effect on people, does it change public perceptions of court

impartiality for some people and not others? There is more than enough precedent in prior literature to warrant this additional exploration. For example, both Zink, Spriggs, and Scott (2009) and Salamone (2014) found the effect of unanimity was often conditional on *either* being predisposed to agree (or disagree) with the court decision being read about. Interacting court ideology treatment with judicial consensus treatment along with the respondent's ideology would capture any conditional effect of unanimity based on sharing the court's ideology. There is, however, no evidence that the strong heterogeneous treatment effects of the court ideology treatment are *additionally* dependent on the level of judicial consensus. In other words, unanimity neither bolsters the effects of a court one would be predisposed to favor nor mitigates the effects of an otherwise displeasing court. Unanimity also does not make the court appear more impartial for people who viewed an ideologically balanced court. Based on my analysis, the judicial consensus treatment failed to shape public perceptions of the court in any meaningful capacity. Thus, the finding that unanimity leads to people's perceptions of their actual courts is not corroborated. More work should be done on the impact of unanimity given that it is considered one of the most important determinants of legitimacy according to the justices themselves (Rosen 2007).

Discussion

Public perceptions of court impartiality are influenced by the decisions the court makes. When courts act in a partisan manner by issuing decisions in only one ideological direction, the American public evaluates courts using their own political ideology and beliefs as a guide. This has the effect of making ideologically balanced courts the most impartially perceived courts. Across the entire ideological spectrum, people tend to view such courts as more impartial than

biased. The findings presented here further the argument made in the previous chapter by providing internally valid evidence that the ideological balance of courts matter for how people perceive them.

Interesting puzzles yet remain. Although in the previous chapter I found a statistically significant positive effect for unanimity on public perceptions of courts, there is no evidence that level of judicial consensus matters for how people view courts in the vignettes. Given the empirical evidence as it relates to particular decision attributes (like unanimity) are incredibly mixed, this null result is not necessarily discouraging or even shocking. But, given mixed results in the literature and the nontrivial number of statements made by justices themselves over the appearance of a divided court, more research is certainly warranted. Perhaps unanimity matters only for less politically salient decisions. Perhaps it matters more for accepting decisions as legitimate, even if feelings toward *the court itself* remain unchanged. Or perhaps unanimity is not the strongest signal of legality or form of principled decisionmaking (Gibson and Caldeira 2011) a court can send. All of these are credible scenarios worth exploring in future research. It is not, however, the case that people are not picking up on that piece of information coming from the court. The judicial consensus treatment effect was picked up on by over 90% of the sample. People knew that their court was unanimous or divided – they just did not seem to be affected by it.

In the introduction, I stated that the purpose of this chapter was three-fold: First, I wanted to provide a test of the theory that courts are capable of shaping public perceptions and evaluations of the judicial branch using more reliable measures than previous used. I have done that. I controlled the ideology of the court and asked people about their ideological leanings. I asked questions related to the perceived impartiality of the court *and* how legitimate they think

that court is. The central contention of this dissertation finds support under these more precise conditions.

Second, I wanted to test the causal theory I espouse in that I believe courts themselves shape public perceptions of the judicial branch. I showed that people's knowledge appeared dependent on what courts were doing and that public evaluations of courts appeared to shift in response to court actions. But these were all controlled comparisons. They provide compelling evidence that my theory is correct in the real world, but lack the internal validity of an experimental design of my theory. In this experiment, I controlled which court people were exposed too and how people responded to that court. I find similar effects in a laboratory setting as I do in real life, which provides additional plausibility for the theory I advance.

Finally, there were just certain questions that I could not address with the survey data currently available. Do people *like* ideologically mixed courts or do they just prevent partisan evaluations? In this experimental setting, it appears that positivity bias is in effect. People reward the court for pleasing decisions but fail to punish the court to a meaningful degree for displeasing decisions. On balance, an ideologically balanced court is viewed as more impartial than biased – more legitimate than illegitimate. I also could not test very specific conditional effects of unanimity, like, for example, whether unanimity *boosts* the legitimacy of ideologically balanced courts but *diminishes* the legitimacy of ideologically extreme courts. Given the nature of the experiment, I could and did test this possibility as well and find no support for conditional effects of unanimity.

Throughout this dissertation I have extrapolated from data and findings on how people evaluate state courts, specifically state supreme courts, to gain insight into how people evaluate the Supreme Court. A critique of this research could be that because the United States Supreme

Court is the final arbitrator of all legal controversies in the U.S. that I should be careful to extrapolate from what I found in this dissertation to how people may evaluate the nation's highest court. I take this criticism to be a call for more research examining the *differences* in how people evaluate their state courts relative to federal courts or comparing public evaluations of their state court of last resort to the United States Supreme Court. What the research in this dissertation has shown, however, is that partisan evaluations of courts are likely to be absent when courts are ideologically balanced in their decision-making. This finding is consistent with how people evaluate all of the other more partisan branches of government. When partisanship is removed from, say ballots, people often struggle to evaluate and vote for candidates that best match their ideological and partisan leanings (Schaffner, Streb, and Wright 2001). But we would never say that the public is not *trying* to find partisan information and use it in state and local races for the executive and legislative branches of government. Or that people fail to use partisan or ideological information when it is readily available. It is thus far more likely that courts are just good at obscuring their ideological leanings more often than not rather than the alternative theory that people are reluctant to evaluate courts based on partisanship, including the Supreme Court, due to inherent deference to its final authority. Courts are not *that* different from the other branches of government, and there is research to say as much (Gibson 2012).

Chapter V: Conclusion

Although scholars debate the extent to which the American public is polarized, Congress certainly is (McCarty, Poole, and Rosenthal 2006). Never before have we seen so few moderate politicians in our national legislature (Theriault 2008). And, according to Shor and McCarty (2011), over half of state legislatures are *at least* as polarized as Congress. Has the judiciary been a victim of this toxic polarization that plagues the legislative branch? We do not know. To my knowledge, there have been no studies examining the extent to which courts and the judges that sit on them are polarized. While the extent to which the judiciary has become polarized is certainly a fruitful avenue for future research, the central finding of my dissertation speaks volumes as to what the consequences would be if courts become too polarized.

A polarized court, like a polarized Congress, will lack moderates. And without moderate justices, courts will either be ideologically cohesive or bitterly divided but both will be just as ideologically unbalanced in their decision-making. Based on the findings in my dissertation, such courts will lose legitimacy from a major segment of the population – those most likely in the political minority of the state. Democrats will lose faith in an extremely conservative court; Republicans will lose faith in an extremely liberal court. When political minorities lose in the executive or legislative branches, those losses are to be expected. But when those same minorities have no hope in redress before the state’s highest court, they may lose faith in the entire political system.

On June 23, 2016, the United States Supreme Court issued two landmark decisions. The first, *United States v. Texas* (2016) concerned the constitutionality of President Barack Obama’s executive action on immigration. The opinion contained one sentence: “The judgment is affirmed by an equally divided court” (579 U. S. ____ (2016), pg. 1). This tie had the effect of

leaving the judgment of the lower court in place. That lower court placed an injunction of the implementation of Obama's immigration policy and raised concerns about the plan's constitutionality. Conservative politicians lauded the ruling. Senator John Cornyn (R-Texas), for example, said he was "glad the *rule of law* was affirmed" (Aguilar and Mekelburg 2016) and Speaker Paul Ryan called the ruling a "victory in our fight to restore the separation of powers" (Hallerman 2016).

That same day, the Supreme Court narrowly upheld Texas's affirmative action program in a 4-3 decision (*Fisher v. University of Texas* 2016). With Justice Elena Kagan recusing herself, court watchers all but expected affirmative action to be a dead or a severely crippled social policy for university admissions (Liptak 2015). Why? Because before this case, Justice Anthony Kennedy *never* voted to uphold an affirmative action program as being constitutional in his twenty-eight (plus) years on the bench (Jacobs 2016). In this case, however, Kennedy sided with his liberal colleagues to uphold affirmative action programs under certain conditions. Leading Democratic officials praised the ruling. Hillary Clinton, for example, called the decision a "win for all Americans" (Doyle 2016), and Attorney General Loretta Lynch, in a press statement, said she was "pleased that the Supreme Court has recognized our compelling interest in ensuring diversity in higher education" (Lynch 2016).

If we eventually know the real reasons behind Kennedy's evolving view of affirmative action, it will not be until decades after he has left the bench. But, regardless of Kennedy's intentions, the court moderate did what he does best: side with liberals some of the time and side with conservatives the rest of the time. Just to hit home the most important finding of this dissertation: Some Republicans will be upset with the Court; many more will be happy. Some Democrats will be disgruntled by the Court this term; most will be elated. But, overall, both

Republicans and Democrats will support the Supreme Court and will do so at relatively equal rates. This is because the Court is ideologically balanced in its decision-making. And June 23, 2016, is a perfect example of that kind of decision-making happening in *a single day*. This kind of decision-making does not happen in all courts and will be increasingly less likely to happen if the courts are as polarized as the other, more political branches. Strong Democrats might not approve of the moderate nature of President Barack Obama's Supreme Court nominee Merrick Garland, because he is no Ruth Bader Ginsberg in his political ideology. But Garland might prevent the Court from tipping too far in a liberal direction. And in an era of polarized politics, a fair and balanced high Court might be exactly what this country needs.

Findings in Review

We used to assume that the United States Supreme Court was conservative, so that any work failing to uncover a relationship between ideology or partisanship was puzzling. If the High Court is conservative, why is it that conservatives view the Court as legitimate as liberals do? Recent work brought to light that this assumption is only partially true. According to (Bartels and Johnston 2013), a person could reasonably believe the Court is “conservative, moderate, *and even liberal*” (185). The Court never strays too far away from issuing roughly fifty percent liberal and fifty percent conservative decisions in any given term. This recent discovery led some scholars to speculate that perhaps this ideological balance is the reason why partisanship does not predict support for the High Court (Gibson and Nelson 2014a). To me, that was an important hypothesis to test. And this dissertation revolved around testing that basic idea: that an ideologically balanced court fails to trigger partisan evaluations. The implication is that more ideologically extreme courts *would* trigger such partisan evaluations; Democrats or Republicans

will view ideologically extreme courts as more impartial and more legitimate when the court issues decisions overwhelmingly favorable to one group of partisans over the other.

It is, given the currently available data and composition of the Supreme Court, impossible to test that hypothesis using just the Supreme Court as a test case. Doing so would require numerous counterfactual situations or decades of time-series data, which does not exist. Instead, I turn to the American states whose high courts vary significantly in their ideological composition. Although not as prestigious as the Supreme Court, they are the highest courts in each state and are often the final word on significant legal controversies that affect the lives of all citizens under their jurisdiction. If Democrats and Republicans, liberals and conservatives evaluated extremely liberal courts the same as moderate courts and extremely conservative courts, then perhaps courts truly are unique political institutions. However, if partisans diverge in their evaluations of ideologically extreme courts *and* more moderate courts enjoy higher support unrelated to partisanship, then that would be, perhaps, the best possible evidence for the main hypothesis of this dissertation.

In order for people's evaluations of courts to be dependent on what courts are doing, I needed to show that awareness of state courts was not dismally low. In Chapter II, I believe I accomplished this task. I first provided some qualitative analysis that suggests the political environment to which people are exposed to is rich with information about state courts. Dozens of newspaper articles cover the state supreme court each year. Major decisions make the front page of the most circulated newspapers. Elections, confirmations, and court decisions made in years past are all topics of discussion in major state newspapers.

Next, I provided descriptive statistics showing the proportion of the population who could correctly answer questions about state court structure and the current ideological leanings

of the state high court. Averages were not exceedingly high, but they were not that far off from public knowledge of the national government. If we believe public attitudes toward Congress, the president, and the Supreme Court are meaningful, there is little reason – based on the data – to not also believe that to be the case for state courts. Finally, I showed that levels of knowledge are often a function of *what courts are doing* in that state. These factors predict knowledge of court ideology more so than knowledge of court structure, but this is encouraging. If knowledge of a current fact about their state courts is, in large part, due to what that court is doing, then there are strong reasons to believe public perceptions and support for those courts will be dependent on what the court is doing as well.

In Chapter III, I provide the observational evidence to support my thesis: partisan evaluations of courts occur when state high courts are ideologically extreme. This contention holds true, however, for the moderately and highly aware public. Low knowledge respondents appear incapable of making predictable partisan judgments (or, at the very least, they are inconsistent in their judgments).

In Chapter IV, I provide experimental evidence showing the same thing. But, in addition, I found that ideologically moderate courts are, for the most part, viewed as highly impartial and highly legitimate. It seems that people are willing to forgive a displeasing decision if mixed in with a pleasing one. This finding is consistent with the leading theory of public evaluations of the Supreme Court – positivity bias. People appear to not punish the High Court for displeasing decisions while rewarding the Court for pleasing ones. This holds true for the Supreme Court but that might be because it does not issue too many displeasing decisions to too many people. In other words, based on my findings, people certainly are willing to “punish” courts that issued no pleasing decisions to them; but they are more likely to reward than punish courts when the court

is ideologically balanced. People could have clung onto the displeasing decisions. On balance, they do not. They remember the pleasing decisions (when mixed in with displeasing ones) and reward the court accordingly.

I believe I have also provided a potential solution to the confused state of public opinion research on state courts. Recall from the Introduction that scholars have found very inconsistent effects for judicial selection mechanisms on the American public. Judicial elections may decrease confidence (Benesh 2006), have a net positive impact on court legitimacy (Gibson 2012), or do nothing at all (Kelleher and Wolak 2007). What I found, based on the findings in Chapter III, is that partisan judicial elections effectively provide the public with ideological information about their state supreme court. For people who share that court's ideology, elections should increase knowledge of that congruence and hence confidence in and support for that institution. For people who do not share that court's ideology, elections should increase knowledge of that *incongruence* and hence lower confidence in and support for that institution. It would be interesting to see if, over the course of the campaign, whether the net positive effect Gibson (2012) finds in Kentucky is being driven by the “winners” in those Kentucky elections. My findings suggest that the effect of judicial elections (especially partisan elections) is conditional – not on something like knowledge or any other characteristic previously examined – but on whether people share the ideology of the court they are learning about.

Remaining Puzzles

When it comes to the test of the main hypothesis of this dissertation, the results are pretty clear: people's partisan predilections emerge when courts act in a partisan manner. Other findings, however, need some additional pondering. Perhaps the most puzzling of the findings

concerns the effects of *unanimity*. Recall that in Chapter II, unanimity played a crucial role in predicting respondents correct ideological placement of their state's highest court. The more unanimous a court is the *more* likely people will be able to correctly identify court ideology. This finding suggests one of two possibilities: either people take unanimity as a cue of ideological cohesion or people see divided courts as more confusing. I do not know.

In Chapter III, I found that for people with moderate or high levels of knowledge of their state courts, increasingly unanimity led people to believe courts are more impartial in their decision-making. The findings from Chapters II and III cannot easily be reconciled. If unanimity is seen as an ideological cue (i.e. the justices must all be Republicans or Democrats), then that should have been already taken into account when I controlled for the high court's ideology. If it is the divided decisions people are reacting to, then it seems puzzling that people will both be more confused by divided courts (because they are less likely to know the court's ideology) and less likely to view that court is impartial.

Perhaps the most puzzling issue with unanimity comes from the findings of the experiment. The *strongest* cue coming from the court was whether the court was unanimous, divided, or no information was given about how the justices voted. Over *ninety* percent of the people surveyed could correctly recall the level of judicial consensus. This percentage is nearly twenty percentage points higher than correct recognition of the ideological treatment. In other words, people were far more likely to recall a very specific legalistic fact about the court more than the decisions they made and the multiple ideological cues given in the vignette. But then, after a series of rigorous tests, the judicial consensus treatment *failed* to shape anyone's view of the court. Beliefs about the impartiality of the court remained the same. Legitimacy was granted at similar rates across the judicial consensus treatment. Hypotheses concerning heterogeneous

treatment effects were explored and dismissed for lacking any evidence. People know about unanimity but do not appear to respond to it.

This dissertation presents at least two inconsistent findings about the effects of unanimity on the American public. I can only begin to speculate as to what is going on. The experiment has the benefit of internal validity, so one might be inclined to conclude that unanimity does not affect people and that the results from the previous chapters are capturing some yet-to-be identified variable that is highly correlated with unanimity. But the experiment made it incredibly clear that the court was ideological – even if it was simply to reveal that the court pleased liberals and conservatives half the time. The experiment also contained decisions that were high profile, controversial, and easy to understand. The decisions pitted the police against individuals, balancing the budget versus union power, and the environment against businesses. These fall neatly into the ideological spectrum. The experiment most likely maximizes the effects of ideology and partisanship, which may also result in suppressing any effect unanimity may have had in other, less ideologically charged, circumstances.

It could also be the case that “bitterly divided” courts are highly correlated with inappropriate judicial behavior. The Wisconsin Supreme Court is currently known as being split and the situation where one of the conservative justices allegedly choked one of the liberal justices made the national news, and a recent *New Yorker* article describes how the bitter partisan politics in that state has led to the “destruction of the Wisconsin Supreme Court” (Caplan 2015). Divided courts are not just confusing, they are *deeply entrenched* in the party politics of the state, and that kind of politicking is exactly what the public does not care for (see Hibbing and Theiss-Morse 2002). I am merely speculating at this point. There are too many questions about

unanimity left unanswered by this dissertation, and only more research can sort out its effects, if any, on the general public.

Moving Forward in the Study of Public Opinion of the Judicial Branch

I would like to end by suggesting a few ways forward for future research on public opinion toward the judicial branch. Of course, having better data and cleaner measures is a common wish of state politics scholars, and I echo that hope. But, more importantly, I think we can learn a lot more about public knowledge of and how people evaluate the state courts by considering two things: First, people have different expectations about their courts and judges. Some people believe judges should be elected, and other people believe judges should be appointed. Some people think judges should follow the law in making decisions; others think they should follow the will of the people (Gibson 2012). Most scholarship, including this dissertation, fails to adequately take into account the differences in expectations people have toward the judicial branch. Why are these expectations different? And how do they influence how people see their courts and judges? Can courts and judges themselves *shape* these expectations? All we know so far is that people have differing expectations. Now we should try to learn the “why” and “how” surrounding their formation and influence.

Second, with more and more media providing online or electronic versions of their coverage, scholars should take a closer look at how often state courts are covered, whether or not news outlets have specific reporters that cover the court, and *how* the news outlets portray the judicial branch of government. Framing is everything and while we may know some of the effects of a more political frame versus a legalistic one (Baird and Gangl 2006), we have little knowledge of how often one frame dominates the information environment as opposed to the

other. Perhaps more state-level variation in knowledge and public support for courts can be explained by at last quantifying these omitted variables in a systematic way.

Finally, state court public opinion scholars often apologize that the measure they are using does not contain the usual battery of questions used to measure diffuse support for the United States Supreme Court as developed by Caldeira and Gibson (1992). Benesh (2006) specifically sidesteps the specific versus diffuse support debate (pg. 701 fn. 11). Johnston and Bartels (2010) use a scale nearly identical to the one I used in Chapter III and simply calls it “diffuse support.” The distinction between the two concepts is arguably important in studies of the United States Supreme Court. After all, the justices on that Court are never accountable to the people. What people feel about the justices on the High Court and its performance at any given time (specific support) is almost irrelevant to whether it can operate well. But state courts are, in one very important respect, quite different from the Supreme Court. With the exception of two high courts, all justices are accountable to *someone*. For the appointed justices, they face reappointment by the governor, state legislature, or judicial commission. But for the vast majority of state judges, they eventually face the electorate directly. And one thing political scientists know about how people vote is that they vote based on approval – *not* based on some deeply rooted loyalty to the institution of the governorship or presidency, or the institution of Congress or state legislature. They vote based on how they *feel* about the politicians holding that office at that time. While any number of factors shape approval, vote choice boils down to which candidate you like better (Campbell et al. 1960).

If most judges are elected and vote choice in these elections boils down to a measure of specific support, then when it comes to state court judges, studies of what influences *specific* support may be more telling and more important to proper functioning of the judiciary than

studies of diffuse support. People might like courts as an institution, but not the judges who sit on it. And if these judges can be voted out of office for unpopular decisions, then understanding what goes into that choice and how people perceive their judges and courts at any given time is extremely beneficial. In the state judicial politics literature there are two major lines of work: studies of voting in judicial elections and studies of public opinion toward state courts. These two lines of work rarely speak to each other – but they could. Studies of vote choice could inform models of public opinion toward courts and judges and vice versa.

On the Importance of State Courts

I leave you with a quote from the former Chief Justice of the Wisconsin Supreme Court, Shirley S. Abrahamson (1982):

There is, as you may know, a bias in the legal system against state judges. There is a myth that state judges play in the minor leagues of the American judicial system...The fact is that the vast bulk of criminal litigation in this country is handled by state courts. The everyday burglar, robber, rapist, or murderer has violated state law and is tried in state court. Indeed, the bulk of all litigation in this country, civil or criminal, is handled by state courts. The state judges are the workhorses. The state courts carry the heavy burden of dispensing justice. [And] it is the state courts that interpret the rules people live by (961).

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Dissertation Appendix

A. Appendix to Chapter II

Appendix Table 1: State Newspapers	
State Name	Most Circulated Newspaper (as of March 2005)
Colorado	<i>Denver Post</i>
Connecticut	<i>Hartford Courant</i>
Georgia	<i>Atlanta Journal-Constitution</i>
Kentucky	<i>Louisville Courier-Journal</i>
New Mexico	<i>Albuquerque Journal</i>
Oklahoma	<i>Oklahoma City Oklahoman</i>
Oregon	<i>Portland Oregonian</i>
Pennsylvania	<i>Philadelphia Inquirer</i>
South Dakota	<i>Sioux Falls Argus Leader</i>
Wisconsin	<i>Milwaukee Journal Sentinel</i>

Appendix Table 2: List of Gay Marriage Cases in Statistical Analysis			
State	Case	Year	Included in Analysis for
Hawaii	<i>Baehr v. Lewin</i>	1993	2009 and 2014 Surveys
Vermont	<i>Baker v. State of Vermont</i>	1999	2009 and 2014 Surveys
Massachusetts	<i>Goodridge v. Department of Public Health</i>	2003	2009 and 2014 Surveys
New Jersey	<i>Lewis v. Harris</i>	2006	2009 and 2014 Surveys
California	<i>In Re: Marriage Cases</i>	2008	2009 and 2014 Surveys
Connecticut	<i>Kerrigan v. Commissioner of Public Health</i>	2008	2009 and 2014 Surveys
Iowa	<i>Varnum v. Brien</i>	2009	2014 Survey Only
New Mexico	<i>Griego v. Oliver</i>	2013	2014 Survey Only

B. Appendix to Chapter III

The Annenberg Judicial Independence Survey was conducted from August 3, 2006 through August 16, 2006, and has a grand total of 1002 respondents. Three of these respondents were automatically excluded because they live in the District of Columbia, so the effective maximum sample size is 999.

Dependent Variable

Variable: **Perception of Court Impartiality**

Annenberg Variable Names: q3b, q5b, q5c, q5d, q8, q12

Recoded Variable Names: *judges_ethical_rc*, *court_politics_rc*, *court_wealthy_rc*, *court_legislating_rc*, *judge_political_rc*, *court_fair_rc*

Dependent Variable Name: *impartial_court*

Coding Procedure

I recoded all of the component variables to range from 0 to 1. Zero indicates the respondent believes that state courts are the *least* impartial (i.e. biased). One indicates the respondent has the perception that state courts are the *most* impartial. “Somewhat” answers fell in between 0 and 1. I then took the mean of the six variables for each respondent in the sample.

Descriptive Statistics for Dependent Variable

impartial_court

Weighted Sample:

Mean	.37
Standard Deviation	.20
Number of Observations	994

Unweighted Sample:

Mean	.37
Standard Deviation	.20
Number of Observations	994

The Cronbach’s alpha is **.62**.

Below contains the exact question wording of each of the component variables. For each question, respondents that answered with either “Don’t Know” or refused to answer the question were recoded as missing. The weighted proportion of respondents in each possible answer choice including those respondents that are missing on that variable.

q3b: judges_ethical_rc

Question q3b asked people the following: “Now thinking about the ethical practices of judges in [state respondent lives in], in your opinion are the ethical practices of judges in [state respondent lives in] very good, somewhat good, somewhat bad, or very bad?”

Coding	Variable Label	Weighted Proportion in Sample
0	Very Bad	.0538
0.33	Somewhat Bad	.1184
0.66	Somewhat Good	.5692
1	Very Good	.1127
.	Missing	.1460

q5b: court_politics_rc

Question q5b asked people the following: Turning to the court system in [state respondent lives in]. Please tell me if you strongly agree, somewhat agree, somewhat disagree or strongly disagree with the following statement: The courts get too mixed up in politics.

Coding	Variable Label	Weighted Proportion in Sample
0	Strongly Agree	.4103
0.33	Somewhat Agree	.3455
0.66	Somewhat Disagree	.1205
1	Strongly Disagree	.0656
.	Missing	.0582

q5c: court_wealthy_rc

Question q5c asked people the following: Turning to the court system in [state respondent lives in]. Please tell me if you strongly agree, somewhat agree, somewhat disagree or strongly disagree with the following statement: The courts do not favor the wealthy or those with political influence.

Coding	Variable Label	Weighted Proportion in Sample
0	Strongly Disagree	.3584
0.33	Somewhat Disagree	.2602
0.66	Somewhat Agree	.2104
1	Strongly Agree	.1024
.	Missing	.0685

q5d: court_legislating_rc

Question q5d asked people the following: Turning to the court system in [state respondent lives in]. Please tell me if you strongly agree, somewhat agree, somewhat disagree or strongly disagree with the following statement: The courts are legislating from the bench rather than interpreting the law.

Coding	Variable Label	Weighted Proportion in Sample
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0	Strongly Agree	.2105
0.33	Somewhat Agree	.4109
0.66	Somewhat Disagree	.1684
1	Strongly Disagree	.0876
.	Missing	.1226

q8: judge_political_rc

Question q8 asked people the following: In your opinion, to what extent do you think a judge's ruling is influence by his or her personal political views—to a great extent, moderate extent, small extent, or not at all?

Coding	Variable Label	Weighted Proportion in Sample
0	Great Extent	.3346
0.33	Moderate Extent	.4138
0.66	Small Extent	.1596
1	Not At All	.0530
.	Missing	.0390

q12: court_fair_rc

Question q12 asked people the following: Which of the following statements come closer to your beliefs about the courts in [state respondent lives in]?

The courts are fair and objective in their rulings.

The courts are sometimes politically motivated in their rulings.

Coding	Variable Label	Weighted Proportion in Sample
0	Politically Motivated	.6411
1	Fair and Objective	.2868
.	Missing	.0721

Independent Variables

Key Moderating Variable: Judicial Knowledge

Variable: **Judicial Knowledge**

Annenberg Variable Names: q19, q24, q25, [q26, q27_1, q27_2, q27_3], q28, q29

Recoded Variable Names: know_elect, know_purpose, know_protect, know_jb, know_cj, know_reasons

Independent Variable Name: *know*

Coding Procedure

I recoded all of the component variables to range from 0 to 1 with 0 indicating the respondent either did not know the answer to the question, answered incorrectly, or refused to answer the question, and with 1 indicating only that the respondent knew the correct answer to the question, for the objective indicators of judicial knowledge. For the one subjective indicator (q24), 0

indicates the respondent either knows the courts very poorly, did not know or refused to answer the question. One indicates the respondent believes he or she knows the purpose and function of the court system “Very Well.” I then took the mean of the six variables to construct a measure of judicial knowledge.

Descriptive Statistics for Judicial Knowledge

know

Weighted Sample:

Mean	.43
Standard Deviation	.23
Number of Observations	999

Unweighted Sample:

Mean	0.46
Standard Deviation	0.22
Number of Observations	999

Cronbach’s alpha for the mean value of the component variables is **.49**.

q19: know_elect

Question q19 asked respondents: “To the best of your knowledge are judges in your state ELECTED by the people or APPOINTED by the Governor or an independent committee?” This question is problematic for two reasons. For one thing, not all judges in each state are selected using the same process. The question does not *refer* to a particular kind of judge (ones that sit on the court of last resort versus local judges). I code respondents in those particular states (the states that select their judges using both election and appointment mechanisms) as having a correct answer so long as they did not answer with “Don’t Know” or refused to answer the question. Secondly, judges in states that utilize a form of merit selection are initially appointed but eventually stand in retention elections. Respondents that live in states that use merit selection were coded as being correct only if they responded that judges in that state are *appointed*. I code these respondents in this way, because in all states that utilize merit selection, the judges are *initially* appointed by either the governor, a committee or some combination of both. Judges are never actually selected by the people in these states – they can only be removed by the people.

Coding	Variable Label	Weighted Proportion in Sample
0	Did Not Know How Judges Are Selected	.3534
1	Knew How Judges Are Selected	.6466

q24: know_purpose

Question q24 was a subjective assessment of the respondent’s knowledge of state courts: “How well do YOU feel that you understand the purpose and role of the court system – very well,

somewhat well, somewhat poorly or very poorly?” This question was recoded to range from 0 (very poorly) to 1 (very well).

Coding	Variable Label	Weighted Proportion in Sample
0	Very Poorly/Don't Know/Refused	.0859
0.33	Somewhat Poorly	.1878
0.66	Somewhat Well	.5465
1	Very Well	.1798

q25: know_protect

Question q25 asked respondents the following: “Does the constitution in [state respondent lives in] protect judges from the threat of being removed from office if the judge makes a ruling that the governor or the legislature disagree with?” Respondents who answered *yes* were coded as having a correct answer (1). Respondents who answered with either *no*, *don't know*, or refused to answer the question were coded as not being correct (0).

Coding	Variable Label	Weighted Proportion in Sample
0	No/Don't Know/Refused	.7820
1	Yes	.2180

q26, q27_1, q27_2, q27_3: know_jb

Question q26 asked respondents if they could name any of the three branches of government: “Do you happen to know any of the three branches of government?” Respondents who answered *yes* were prompted to list those branches: “Would you mind naming any of them?” Respondents were coded as having more knowledge about the judicial branch if they could name that branch of government.

Coding	Variable Label	Weighted Proportion in Sample
0	Did Not Know Judicial Branch/Refused	.4921
1	Knew Judicial Branch	.5079

q28: know_cj

Question q28 asked respondents if they could name the Chief Justice of the United States Supreme Court: “Do you happen to know who the current Supreme Court Chief Justice is?” Respondents that could name John Roberts as the Chief Justice were coded as being correct while all other responses were coded as not knowing.

Coding	Variable Label	Weighted Proportion in Sample
0	Did Not Know Chief Justice	.9067
1	Knew Chief Justice	.0933

q29: know_reasons

Question q29 asked respondents: To the best of your knowledge, do Supreme Court justices usually give written reasons behind their rulings or do they NOT usually give written reasons?

Coding	Variable Label	Weighted Proportion in Sample
0	Did Not Know Justices Give Written Reasons	.4731
1	Knew that Justices Give Written Reasons	.5269

Variable: **Party Identification**

Annenberg Variable Names: d2, d3

Recoded Variable Name: *partyid*

Coding Procedure

This variable was constructed using two variables: d2 and d3. Question d2 reads “In politics today, do you consider yourself a Republican, Democrat or Independent? Answer choices were: *Republican, Democrat, Independent*, two volunteered answers (*No Preference* and *Other*) as well as *Don’t Know* and *Refused*. All respondents who did not answer either *Republican* or *Democrat* for question d2 were asked question d3, which reads: As of today, do you lean more to the Republican Party or more to the Democratic Party? Answer choices were *Republican, Democrat*, one volunteered response (*Other*) and both *Don’t Know* and *Refused*. Strength of partisan identification was not asked of self-identified Democrats or Republicans in this survey.

All respondents who do not respond as either identifying with or leaning toward one of the two major political parties are coded as Independent. Although Independents are a heterogeneous group, and research suggests that such heterogeneity may affect the conclusions we draw about the levels of political engagement of Independents (Miller and Wattenberg 1983), these distinctions are not worth excluding the respondents from the statistical analysis of this chapter. The table below contains the proportion of respondents in the sample answering each possible combination of categories I include as “Independent” in my sample.

Descriptive Statistics for Party Identification

Coding	Variable Label	Weighted Proportion in Sample
-2	Democrat	.3555
-1	Leans Democrat	.1443
0	Independent	.1537
1	Leans Republican	.1019
2	Republican	.2446

d2	d3	Weighted Proportion in Sample
Independent	Other	.0172
Independent	Don’t Know	.0542
Independent	Refused	.0167
No Preference	Other	.0034
No Preference	Don’t Know	.0131
No Preference	Refused	.0054

Other	Other	0
Other	Don't Know	0
Other	Refused	.0006
Don't Know	Other	.0024
Don't Know	Don't Know	.0199
Don't Know	Refused	0
Refused	Other	0
Refused	Don't Know	0
Refused	Refused	.0209

Demographics

Variable: **Sex**

Annenberg Variable Name: d1

Recoded Variable Name: female

Coding	Variable Label	Weighted Proportion in Sample
0	Male	.4766
1	Female	.5234
.	Missing	0

Variable: **Age**

Annenberg Variable Name: d4

Recoded Variable Name: age

Coding	Variable Label	Weighted Proportion in Sample
Continuous 18-91 (Rescaled to Range from 0 to 1)	N/A	.9807
.	Missing	.0193

Weighted Sample (Original Coding):

Mean	46.22
Standard Deviation	17.77
Number of Observations	977

Weighted Sample (Rescaled):

Mean	.3866
Standard Deviation	.2434
Number of Observations	977

Variable: **Race/Ethnicity**

Annenberg Variable Name: d6, d7_1, d7_2, d7_3, d7othe

Recoded Variable Name: racethn

Coding Procedure

Question d6 asks respondents if they are of Latino or Hispanic origin. The exact question wording follows: “Are you yourself of Latino or Hispanic origin or descent, such as Mexican, Puerto Rican, Cuban, or some other Latin American background?” Question d7_1, d7_2, d7_3, and d7_4 allow respondents to select multiple races that they identify with. The question asked is: “What is your race? Are you white, black or African American, Asian, American Indian or Alaska Native, or Native Hawaiian or other Pacific Islander? You may select more than one race.” Respondents were coded as *white* if and only if the respondent selected *white* as their primary race (d7_1), did not answer yes to being of Latino or Hispanic descent (so they could have either refused to answer the question or answered “Don’t Know” to being of Latino or Hispanic origin but did answer with “white” as their primary race) and did not select a secondary or tertiary race. Respondents who answered d7_1 with black or African American are coded as black or African American if and only if they did not respond with “yes” to d6 and did not select a secondary or tertiary race. All respondents who answered “yes” to d6 are coded as Hispanic regardless of their answer to the race question. Finally, respondents who are of Asian, American Indian, Alaskan Native, Native Hawaiian, Pacific Islander or are of a mixed racial category are coded as “Other.” Respondents who answered both d6 and d7_1 with either *Don’t Know* or *Refused* were coded as missing.

Coding	Variable Label	Weighted Proportion in Sample
0	Non-Hispanic, White	.7217
1	Non-Hispanic, African American or Black	.1027
2	Hispanic	.1000
3	Non-Hispanic, Other Race	.0575
.	Missing	.0182

Variable: **Education Category**

Annenberg Variable Name: d21

Recoded Variable Name: educ_cat

The first includes "Grade 8 or Lower" and "Some High School, No Diploma"

The second education category includes "High School Diploma or Equivalent" and "Technical or Vocational School"

The third education category includes "Some College, No Degree" and "Associate's or Two-Year College Degree"

The final education category includes "Four-year College Degree," "Graduate or Professional School," and "Graduate or Professional Degree"

Rescaled from 0 to 1.

Coding	Variable Label	Weighted Proportion in Sample
0	Less Than High School Diploma	.1304
0.33	High School Graduate	.3640
0.66	Some College	.2340
1	College +	.2671
.	Missing	.0046

Key Control Variables

Variable: **Experience with Courts**

Annenberg Variable Name: d12, d14

Recoded Variable Name: low_stakes, high_stakes

Benesh (2006) finds that experience with courts shapes people's perceptions with them and that perception is different depending on the experience one has with the state judicial system. People who serve on juries generally express higher levels of confidence in the state courts than people who have no experience with the court system at all. This is because their stake in the outcome is low, but they have high control over that outcome (*Low Stakes, High Control Experience*). However, people who are either a plaintiff or a defendant generally express lower levels of confidence in the state court system, because the stakes of winning the case are high and the respondent has little control over the outcome (*High Stakes, Low Control Experience*).

People who answered in the affirmative to this question (d12) were coded as having a low stakes, high control experience: "Have you served on a jury in the past five years?" People who answered in the affirmative to this question (d14) were coded as having a high stakes, low control experience: "Besides jury duty, have you or an immediate family member gone to court or been part of a court process in the past five years?" All other respondents were coded as not having experience with the state court system in any meaningful capacity.

Coding	Variable Label	Weighted Proportion in Sample
0	No Experience	.6452
1	Low Stakes, High Control Experience	.0705
2	High Stakes, Low Control Experience	.2844
.	Missing	0

Variable: **Differential Media Exposure**

Annenberg Variable Name: q35a, q35b, q35d, q35e

Recoded Variable Name: sensational_exposure

Johnston and Bartels (2010) found that people exposed to more sensationalist news, relative to more traditional news sources, believed state courts were less legitimate compared to people consumed more traditional media. Each question asked the number of days each week the respondent watched national network news (q35a), cable news (q35b), read a daily newspaper (q35d) and listened to talk radio shows (q35e). Both cable news and radio talk shows were considered sensationalist media consumption while national network news and newspapers were considered traditional media consumption. Using the following formula, I constructed a differential media exposure variable ranging from -14 to 14 with positive numbers indicating more exposure to sensationalist media, relative to traditional media and negative numbers indicating the opposite: [network news + newspaper] – [cable news + radio talk shows].

Coding	Variable Label	Weighted Proportion in Sample
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Continuous, -14-14 (Rescaled to Range from 0 to 1)	N/A	1
.	Missing	0

Weighted Sample (Original Coding):

Mean	-1.81
Standard Deviation	4.98
Number of Observations	999

Weighted Sample (Rescaled):

Mean	.4354
Standard Deviation	.1780
Number of Observations	999

Variable: **Proportion Unanimous Decisions**

Variable Name: unan_five

The overall proportion unanimous decisions is the average of the proportion unanimous decisions in the five years prior to the survey (2001-2005) using Hall and Windett's (2013) dataset. For the two states that have two courts of last resort (Oklahoma and Texas), I use the proportion of unanimous decisions for their civil courts of last resort: the Oklahoma Supreme Court and the Texas Supreme Court. I have not recoded this variable to range from 0 to 1 because this variable has a theoretical range from 0 to 1 and for easier interpretation of the graphical results.

Descriptive States (Using All Fifty States):

Mean	0.79	
Standard Deviation	0.16	
Minimum	0.29	Ohio
Maximum	0.99	Delaware
Number of Observations	50	

Variable: **Violent Crime Rate from 2005**

Variable Name: violent_crime

The violent crime rate was taken from the FBI Uniform Crime Reporting Program from the year 2005 and is the rate per 100,000 inhabitants. See:

https://www2.fbi.gov/ucr/05cius/data/table_05.html for the data. The original variable ranges from 98.2 to 761.1. It has been recoded to range from 0 to 1.

Descriptive States (Using All Fifty States):

	Original	Rescaled	State Name
Mean	401.61	0.48	
Standard Deviation	177.63	0.27	

Minimum	98.2	0	North Dakota
Maximum	761.1	1	South Carolina
Number of Observations	50	50	

Variable: **Judicial Integrity from State Integrity Investigation in 2012**

Variable Name: jud_integrity

This is the State Integrity Investigation's numerical grade for the integrity of each state's judicial branch (with *lower* scores indicating more corruption in the judiciary in the state).

Descriptive States (Using All Fifty States):

	Original	Rescaled	State Name
Mean	67.60	0.60	
Standard Deviation	10.23	0.22	
Minimum	40.03	0	Pennsylvania
Maximum	86.37	1	Tennessee
Number of Observations	50	50	

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C. Appendix to Chapter IV

Data

Treatment Frequency Table

Treatment	Frequency
Liberal/Unanimous	188
Conservative/Unanimous	181
Mixed (Balanced)/Unanimous	193
Liberal/Divided	189
Conservative/Divided	208
Mixed (Balanced)/Divided	188
Liberal/Control	185
Conservative/Control	185
Mixed (Balanced)/Control	196
Total	1713

Dependent Variable: Court Impartiality

DV1_1, DV1_2, DV1_3, DV3, DV4, DV5

Although not always on the same scale, all components of this dependent variable were rescaled to range from 0 to 1 with 0 indicating the lowest level of perceived court impartiality and 1 indicating the highest level of perceived court impartiality. Then, the average of the six components was taken.

Mean	Standard Deviation
.498	.242

Dependent Variable: Court Legitimacy

DV2_1, DV2_2, DV2_3, DV2_3, DV2_4, DV2_5, DV2_6, DV2_7

All of these questions were on the same scale. Each component was rescaled to range from 0 to 1 with 0 indicating the respondent affords the court the lowest level of legitimacy and 1 indicating the respondent affords the court with the highest level of legitimacy. Then, the average of the seven components was taken.

Mean	Standard Deviation
.562	.214

Moderating Variable: Political Ideology

Mean	Standard Deviation	Minimum Value	Maximum Value
3.447	1.673	1 (Extremely Liberal)	7 (Extremely Conservative)

Control Variable: Age

Mean	Standard Deviation	Minimum Value	Maximum Value
36.647	12.360	18	79

Control Variable: Education

Median	Mean	Standard Deviation	Minimum Value	Maximum Value
4	3.212	1.292	0	5

Control Variable: Gender (Female)

Median	Frequency (of Median)	Minimum Value	Maximum Value
1	867	0 (Male)	1 (Female)

Control Variable: Race (Nonwhite)

Median	Frequency (of Median)	Minimum Value	Maximum Value
0	1300	0 (White)	1 (Nonwhite)

Control Variable: State Supreme Court Knowledge

Q7, Q8, Q9, Q10

This is a combination of subjective assessments of state court knowledge and objective questions regarding the overall level of knowledge a respondent has regarding their own state court system and court of last resort. Each component variable was rescaled to range from 0 to 1 with 0 indicating the lowest level of perceived knowledge or answering a question incorrectly while 1 indicates the respondent believes he or she has the highest level of knowledge about the state court system or answers an objective question correctly. The average level of knowledge was then taken.

Mean	Standard Deviation
.323	.215

Survey Question Wording

Below is the exact question wording, response options given, along with Qualtrics' *original* coding for the entire survey administered by Amazon.com's Mechanical Turk platform.

Introduction Block

I1. I invite you to share your thoughts about government. This survey should take about 8-10 minutes to complete. You will be paid for completing this survey. There are no other direct benefits to you. I do not know of any personal risk or discomfort you will have from being in this study, and your answers will remain confidential. Your results are also anonymous. I will not be asking for your name. By completing the survey below, you are indicating that you agree to take part in this research. You may discontinue your participation at any time. If you elect to not complete the survey, you will not be paid. In most cases, you may avoid particular questions if you are uncomfortable answering them. If you have any questions about participating in this survey, please contact Corey M. Barwick (corey.barwick@colorado.edu). You may also use this contact if you are interested in knowing more about the results of this survey.

The University of Colorado - Boulder Institutional Review Board has reviewed and approved this study. If you have questions regarding your rights as a participant, any concerns regarding this project, or any dissatisfaction with any aspect of this study, you may confidentially contact the Institutional Review Board (IRB). You can reach the IRB by phone at 303-735-3702 or by e-mail at irbadmin@colorado.edu.

I2. Do you agree to participate in this survey?

Yes (1)

No (2)

Pre-test Questions Block

P1. Do you happen to know or can you name any of the three branches of state government?

Yes (1)

No (2)

If Do you happen to know or can you name any of the three branches of state government? **Yes** is **Selected**

P2. Would you mind naming any of them (the three branches of state government?) Please list as many as you can?

First Branch [Text Box] (1)

Second Branch [Text Box] (2)

Third Branch [Text Box] (3)

P3. Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what?

Democrat (1)

Republican (2)

Independent (3)

Other party [Text Box] (4)

If Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what? **Democrat** is **Selected**

P4. Would you call yourself a strong Democrat or a not very strong Democrat?

Strong Democrat (1)

Not very strong Democrat (2)

If Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what? **Republican** is **Selected**

P5. Would you call yourself a strong Republican or a not very strong Republican?

Strong Republican (1)

Not very strong Republican (2)

If Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what? **Independent** is **Selected**

Or Generally speaking, do you usually think of yourself as a Democrat, a Republican, an Independent, or what? **Other party** is **Selected**

P6. Would you call yourself a strong Republican or a not very strong Republican?

Closer to the Republican Party (1)

Closer to Democratic Party (2)

Neither (3)

P7. Thinking about politics these days, how would you describe your own political viewpoint?

[**Force Response**]

Extremely liberal (1)

Liberal (2)

Slightly liberal (6)

Moderate; middle of the road (3)

Slightly conservative (7)

Conservative (4)

Extremely Conservative (5)

If Thinking about politics these days, how would you describe your own political viewpoint?

Moderate; middle of the road is **Selected**

P8. If you had to choose, would you consider yourself more liberal or conservative? [**Force Response**]

Liberal (1)

Conservative (2)

[Randomization occurred based on ideology. People who selected **Extremely liberal**, **Liberal**, **Slightly liberal** in question P7 and **Liberal** in question P8 were grouped together while people who selected **Slightly conservative**, **Conservative**, **Extremely Conservative** in question P7 and **Conservative** in question P8 were grouped together.]

P9. The United States Supreme Court will conclude its most recent term in June of this year. The U.S. Supreme Court issues decisions that affect the entire nation. Many state supreme courts also issue rulings on important cases affecting the lives of their residents. The following newspaper article describes decisions made by one such state supreme court. Please read the story carefully. You will be asked to give your thoughts and opinions on the court you read about.

Conservative, Unanimous Court

E1.

State High Court Issues Four Unanimous Landmark Decisions Conservatives Pleased with Outcomes

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for both the conservatism of the outcomes and the unanimity of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The court unanimously decided (7-0) that police could obtain cell phone billing and call records without first obtaining a warrant through a judge.
- They (7-0) overturned a jury's guilty verdict against a local police officer for the fatal shooting of a man, because of the officer's claim that he was threatened.
- The supreme court (7-0) also upheld a law passed by the state legislature that made massive cuts to state employee's pensions. And they unanimously (7-0) struck down restrictions on the natural gas industry under the state constitution's clause to "not significantly impair or impede" businesses essential for the state's power source.

These decisions were expected by many court watchers, given the overall conservative bent of the high court. The court in recent years has also regularly passed down unanimous rulings, indicating the overall high level of consensus of the court.

Liberal, Unanimous Court
E2.

**State High Court Issues Four Unanimous Landmark Decisions
Liberals Pleased with Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for both the liberalism of the outcomes and the unanimity of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The court unanimously decided (7-0) that police could not obtain cell phone billing and call records without first obtaining a warrant through a judge.
- They (7-0) upheld a jury's guilty verdict against a local police officer for the fatal shooting of a man, in spite of the police officer's claim that he was threatened.
- The supreme court (7-0) also struck down a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they unanimously (7-0) upheld restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall liberal bent of the high court. The court in recent years has also regularly passed down unanimous rulings, indicating the overall high level of consensus of the court.

Mixed, Unanimous Court
E3.

**State High Court Issues Four Unanimous Landmark Decisions
Conservatives Pleased with Two of the Outcomes; Liberals Pleased with Two of the
Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for the moderate balance of the outcomes – with liberal verdicts on two cases and conservative verdicts on the other two – as well as the unanimity of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The court unanimously decided (7-0) that police could not obtain cell phone billing and call records without first obtaining a warrant through a judge.
- However, they (7-0) overturned a jury's guilty verdict against a local police officer for the fatal shooting of a man, because of the officer's claim that he was threatened.
- The supreme court (7-0) also upheld a law passed by the state legislature that made massive cuts to state employee's pensions.
- But they unanimously (7-0) upheld restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall moderate bent of the high court. The court in recent years has also regularly passed down unanimous rulings, indicating the overall high level of consensus of the court.

Conservative, Divided Court
E4.

**State High Court Issues Four Split Landmark Decisions
Conservatives Pleased with Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for both the conservatism of the outcomes and the divisiveness of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The divided court decided (4-3) that police could obtain cell phone billing and call records without first obtaining a warrant through a judge.
- They (4-3) overturned a jury's guilty verdict against a local police officer for the fatal shooting of a man, because of the officer's claim that he was threatened.
- The supreme court (4-3) also upheld a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they split 4-3 in striking down restrictions on the natural gas industry under the state constitution's clause to "not significantly impair or impede" businesses essential for the state's power source.

These decisions were expected by many court watchers, given the overall conservative bent of the high court. The court in recent years has also regularly passed down bitterly divided rulings, indicating the overall low level of consensus of the court.

Liberal, Divided Court
E5.

**State High Court Issues Four Split Landmark Decisions
Liberals Pleased with Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for both the liberalism of the outcomes and the divisiveness of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

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- They (4-3) upheld a jury's guilty verdict against a local police officer for the fatal shooting of a man, in spite of the police officer's claim that he was threatened.
- The supreme court (4-3) also struck down a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they split 4-3 in upholding restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall liberal bent of the high court. The court in recent years has also regularly passed down bitterly divided rulings, indicating the overall low level of consensus of the court.

Mixed, Divided Court
E6.

**State High Court Issues Four Split Landmark Decisions
Conservatives Pleased with Two of the Outcomes; Liberals Pleased with Two of the
Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for the moderate balance of the outcomes – with liberal verdicts on two cases and conservative verdicts on the other two – as well as the divisiveness of the court.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

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- But they split 4-3 in upholding restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall moderate bent of the high court. The court in recent years has also regularly passed down bitterly divided rulings, indicating the overall low level of consensus of the court.

Conservative, Control Court
E7.

**State High Court Issues Four Landmark Decisions
Conservatives Pleased with Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for the conservatism of the outcomes.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

- The court decided that police could obtain cell phone billing and call records without first obtaining a warrant through a judge.
- They overturned a jury's guilty verdict against a local police officer for the fatal shooting of a man, because of the officer's claim that he was threatened.
- The supreme court also upheld a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they struck down restrictions on the natural gas industry under the state constitution's clause to "not significantly impair or impede" businesses essential for the state's power source.

These decisions were expected by many court watchers, given the overall conservative bent of the high court.

Liberal, Control Court
E8.

**State High Court Issues Four Landmark Decisions
Liberals Pleased with Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for the liberalism of the outcomes.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

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- They upheld a jury's guilty verdict against a local police officer for the fatal shooting of a man, in spite of the police officer's claim that he was threatened.
- The supreme court also struck down a law passed by the state legislature that made massive cuts to state employee's pensions.
- And they upheld restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall liberal bent of the high court.

Mixed, Control Court
E9.

**State High Court Issues Four Landmark Decisions
Conservatives Pleased with Two of the Outcomes; Liberals Pleased with Two of the
Outcomes**

May 2, 2016

Author: Mike Johnson

The state supreme court wrapped up its term this past Friday, ruling on four important issues affecting the state and its residents. Observers have said that the court's slate of decisions stand out for the moderate balance of the outcomes – with liberal verdicts on two cases and conservative verdicts on the other two.

The four central cases dealt with police search warrant requirements, police officer use of deadly force, protection of employee pensions, and regulations on the natural gas industry.

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- But they upheld restrictions on the natural gas industry under the state constitution's clause protecting the "health and well-being" of its citizens.

These decisions were expected by many court watchers, given the overall moderate bent of the high court.

Post-test Questions Block

Q1. Would you consider the decisions of that state supreme court to be mostly liberal, mostly conservative or half liberal, half conservative?

Mostly liberal (1)

Mostly conservative (2)

About half liberal, half conservative (3)

Q2. Based on what you just read, were the rulings of the state supreme court more favorable to the police or individuals?

The rulings were more favorable to the police than to individuals (1)

The rulings were more favorable to individuals than to the police (2)

One ruling was more favorable to the police than individuals, while another ruling was more favorable to individuals than the police (3)

Q3. Based on the decisions you just read about, which of the following statements is most accurate?

The decisions were unanimous: 7-0 (1)

The decisions were divided: 4-3 (2)

The votes of the justices were not presented in the article (3)

Q4. Most people have a favorite Chief Justice of the Supreme Court. For some people that is Earl Warren. For others, it is John Marshall, Roger Taney, or even John Jay. Regardless of if you actually have a favorite Chief Justice, please select John Jay for this question.

Earl Warren (1)

Roger B. Taney (2)

John Marshall (3)

John Jay (4)

Dependent Variable Questions Block

DV1. Based on the news story you just read, please answer the following questions:

To what extent do you feel that the state supreme court...

DV1_1. Was fair and impartial when issuing its rulings.

DV1_2. Considered the opinions of people who share your viewpoint on those issues.

DV1_3. Strictly followed the law when making its decisions.

Not At All (1)

Small Extent (2)

Moderate Extent (3)

Great Extent (4)

DV2. Again, please consider the state supreme court you just read about in answering the following questions:

DV2_1. We ought to have stronger means of controlling the actions of that state supreme court.

DV2_2. That state supreme court ought to be made less independent.

DV2_3. Judges on state supreme courts who consistently make decisions like that court should be removed from their position as judge.

DV2_4. We cannot trust those state supreme court judges to decide court cases in a way that is in the best interests of the people.

DV2_5. It might be better to do away with that state supreme court altogether.

DV2_6. That state supreme court gets too mixed up in politics.

DV2_7. The right of that state supreme court to decide certain types of controversial issues should be reduced.

Strongly Agree (1)

Agree (2)

Neither Agree nor Disagree (3)

Disagree (4)

Strongly Disagree (5)

DV3. For just a few more questions, please consider the court rulings you just read about:

That state supreme court is legislating from the bench rather than interpreting the law.

Strongly Agree (2)

Agree (3)

Neither Agree Nor Disagree (7)

Disagree (5)

Strongly Disagree (6)

DV4. In your opinion, to what extent do you think the judges' rulings were influenced by their personal political views?

Great Extent (1)

Moderate Extent (2)

Small Extent (3)

Not at All (4)

DV5. Which of the following statements come closer to your belief about that court?

That court was fair and objective in their rulings. (1)

That court was politically motivated in their rulings. (2)

DV6. How well do you think that state supreme court does its main job in government? It does...

A great job (1)

A pretty good job (2)

A not very good job (3)

A poor job (4)

DV7. To what extent do agree with the decisions that court made?

- I agree with all of the decisions. (1)
- I agree with most of the decisions. (2)
- I agree with about half of the decisions. (3)
- I agree with few of the decisions. (4)
- I agree with none of the decisions. (5)

State and Attention to Politics Questions Block

Q5. What state do you currently live in?

[Dropdown Menu]

Q6. Can you recall ever reading, listening to, or watching a news story either in print, on t.v., or online about decisions from your state supreme (highest) court, that is, the [Q5. Respondent State] Supreme Court?

- Yes (1)
- No (2)

Q7. How often do you hear about decisions from your state supreme (highest) court, that is, the [Q5. Respondent State] Supreme Court?

- Often (1)
- Sometimes (2)
- Seldom (3)
- Never (4)

Q8. How well do you feel that you understand the purpose and role of the court system in [Q5. Respondent State]?

- Very poorly (1)
- Somewhat poorly (2)
- Somewhat well (3)
- Very well (4)

Q9. Does the constitution in [Q5. Respondent State] protect judges from the threat of being removed from office if the judge makes a ruling that the governor or the legislature disagrees with?

- Yes (1)
- No (2)
- Don't Know (3)

Q10. Do you happen to know how judges for [Q5. Respondent State]'s supreme (highest) court are selected?

They are elected by the people in either nonpartisan or partisan elections. (1)

They are appointed by the governor or state legislature. (2)

They are initially appointed but must stand in retention elections (where the people vote either "yes" or "no") to stay in office. (3)

Don't know (4)

Demographic Questions Block

D1. In what year were you born?

[Dropdown Menu]

D2. Are you male or female?

Male (1)

Female (2)

D3. What is the highest level of education you have completed?

Did not graduate from high school (1)

High school graduate (2)

Some college, but no degree (yet) (3)

2-year college degree (4)

4-year college degree (5)

Postgraduate degree (MA, MBA, MD, JD, PhD, etc.) (6)

D4. What racial or ethnic group best describes you? [Respondents can choose more than one option]

White (1)

Black or African-American (2)

Hispanic or Latino (3)

Asian or Asian-American (4)

Native American (5)

Middle Eastern (6)

Mixed Race (7)

Other (8) [Text Box]

D5. People like all different kinds of ice cream flavors. The most popular flavors in the United States are: cookies and cream, vanilla, cookie dough, and mint chocolate chip. Regardless of your actual favorite ice cream flavor, please select cookie dough for this question.

Cookies and cream (1)

Vanilla (2)

Cookie dough (3)

Mint chocolate chip (4)