

Public Understanding of and Support for the Courts

2007 Annenberg Public Policy Center Judicial Survey Results

Released October 17, 2007 by Kathleen Hall Jamieson, Director, Annenberg Public Policy Center, at the Sandra Day O'Connor Project on the State of the Judiciary, Georgetown University Law Center, Washington, D.C.

[Survey details available at www.annenbergpublicpolicycenter.org]

I. KNOWLEDGE

Many Americans are ignorant of basic civics. When asked if they knew any of the three branches of government, three-fourths, 74 percent, of Americans said yes. However, when asked if they could name any of the branches, only 36 percent correctly named all three.

HOW KNOWLEDGEABLE IS THE AMERICAN PUBLIC ABOUT THE COURTS?

THE PUBLIC DOES NOT UNDERSTAND THE IMPORTANCE OF A SUPREME COURT RULING

- One out of three (32%) believes U.S. Supreme Court rulings can be appealed, 31% knows that the rulings are final and 38% is not sure or doesn't know.
- Less than half of Americans (45%) believe that a 5-4 decision by the Supreme Court carries the same legal weight as a 9-0 ruling, consistent with our 2005 findings. (When the Court divides so closely, 14% believe the decision is referred to Congress for reconsideration, 7% think it is sent back to the lower courts and a third (34%) doesn't know.)
- 40% said the Constitution permits the President to ignore a Supreme Court ruling if he believes that doing so will protect the country from harm. 32% said he may not ignore the ruling, and 27% said they don't know.

THE PUBLIC CANNOT NAME THE CHIEF JUSTICE

- Only one in seven Americans (15%) can correctly name John Roberts as Chief Justice of the United States; 78% don't know. Two-thirds of Americans (66%) know at least one of the judges on the Fox television show *American Idol*. In a 2006 survey, less than one in 10 (9%) could identify the Chief Justice.

THE PUBLIC DOES NOT CLEARLY DISTINGUISH THE ROLE OF JUDGES FROM THAT OF LEGISLATORS

- Seventy-seven percent of Americans believe that, to a great or moderate extent, state judges should represent the views of the people of their state. Ninety-four percent believe that this is a responsibility of the state legislators. Three-fourths (75 percent) of Americans believe that representing the views of the people of their state applies to both state judges and state legislators.
- When asked about whose job it is to interpret the laws of the state and the state constitution, 91 percent said state judges, while 87 percent believe, to a great or moderate extent, that it is the state legislators' responsibility. This is an overlap of 81 percent.

- Fifty-six percent of Americans believe that expressing their views on controversial issues is a responsibility that applies to judges, while 75 percent believe this is a responsibility of state legislators.

II. TRUST

TRUST IN THE COURTS REMAINS HIGH

- 66% of Americans trust the Supreme Court a great deal or a fair amount to operate in the best interests of the American people. In 2005, 75% said they agree or strongly agree that the Supreme Court can usually be trusted to make decisions that are right for the country as a whole.
- Trust in state courts to operate in the best interests of the American people is 60%, virtually unchanged from 2006 (62%).
- Trust increases with education and decreases with age; there is no statistically significant difference by gender.

THE PUBLIC FAVORS ELECTING JUDGES

- When asked how best to select judges, 64% favored direct election and 31% favored a system in which governors nominate judges from a list of names prepared by an independent, bipartisan committee.
- When asked about the impartiality of appointed judges versus elected judges, 36% said appointed judges were just as likely to be fair and impartial, 33% said they were less likely and 24% said more likely.

PARTISAN ELECTIONS HAVE THE CAPACITY TO ERODE SOME OF THIS TRUST

- Americans who live in states that hold partisan judicial elections are more cynical toward the courts than Americans who live in states that do not hold partisan judicial elections. After controlling for socio-demographic variables, political preferences and news media use, we found that living in a state that holds partisan elections is negatively related to trusting the state courts to operate in the best interest of the American people. (See appendix for list of states. See also Table 1 below.)
- Living in a state that holds partisan judicial elections is negatively related to the belief that the courts are interpreting the law and not legislating from the bench, and is negatively related to the belief that the courts are fair and impartial in their rulings. Living in a state that holds partisan judicial elections also leads to higher agreement with the statement that “judges are just politicians in robes.”

III. PERCEPTIONS OF THE JUDICIARY

PERCEPTION OF IDEOLOGICAL BIAS

- 75% of Americans said a state judge’s ruling is influenced by his or her politics to a great or moderate extent, unchanged from 2006. However 33% said that it is very appropriate or somewhat appropriate, an increase from the 29% who said it was very or somewhat appropriate in the 2006 survey.

PERCEPTION OF CLASS BIAS

- Nearly three-quarters of the public (74%) said they strongly disagree or somewhat disagree with the following statement: Courts favor the poor over the wealthy. In 2006, 62% said they strongly disagree or somewhat disagree with the statement: The courts do not favor the wealthy or those with political influence.

PERCEPTION OF THE INFLUENCE OF MONEY/SELF INTEREST

- 73% of the public thinks that fear of not being reappointed or reelected would affect a judge’s ability to

be fair and impartial. That represents an increase from 67% in 2006.

- 69% thinks that raising money for elections affects a judge's rulings to a moderate or great extent, virtually unchanged from the 2006 response.

PERCEPTIONS THAT CALL JUDICIAL INDEPENDENCE AND PEROGATIVES INTO QUESTION

- 60% of Americans said the President should follow a Supreme Court ruling he disagrees with, which is virtually unchanged from the 2006 survey (58%). 32% said the President should instead do what he thinks is in the best interest of the country, compared to 36% last year.
- Nearly half of Americans (49%) said that if the Supreme Court issues a ruling that the President disagrees with because he believes that the ruling would prevent him from protecting the country against terrorist attacks the President should do what he thinks is in the best interest of the country. 44% said he should follow the Supreme Court's ruling. This is a difference from the 2006 survey in which 36% said the President should act in what he thinks is the best interest of the country and 58% said he should follow the Supreme Court.
- Eighty-one percent (81%) of the public disagrees or strongly disagrees that, "If the Supreme Court started making a lot of rulings that most Americans disagreed with, it might be better to do away with the Court altogether." 17% agrees or strongly agrees.
- Less than half (42%) said it is essential or very important to be able to impeach or remove a judge from office if the judge makes an unpopular ruling. That represents a decline from 2006 results in which 48% said it was essential or very important.

IV. WHY DOES ANY OF THIS MATTER?

Multivariate statistical methods can show how attitudes about how courts function relate to trust in the judicial system as well as to other outcomes. Drawing on our 2006 survey we used structural equation modeling to identify the predictors of trust in courts and to determine how trust relates to (1) supporting a president's decision to ignore the Supreme Court and (2) supporting the impeachment of judges if they make unpopular rulings. Looking at the precursors of trust shows that increases in respondents' knowledge decrease their beliefs that judges are motivated by self-interest, that they favor the more affluent members of society, that courts have too much power and that judges are too affected by the political process. These four types of perceived judicial bias – self-interest, economic bias, power imbalance, political influence – are central to our analysis because they are all *negatively* associated with trust in courts. Trust in the courts is important because a drop in trust and an increase in the four judicial biases predict the beliefs that the President *can ignore Supreme Court decisions* and that judges *should be impeached* on the basis of unpopular rulings.

Our 2007 survey confirms that those who are less knowledgeable are more likely to believe that judges are biased and less likely to believe that the courts act in the public interest.

It shows as well that the belief that judges are biased and that the court system does not act in the public interest predicts willingness to impeach or sue judges, and willingness to abolish the Supreme Court or limit its jurisdiction and an increased disposition to hold that when they are in conflict it is acceptable for the President to ignore a Supreme Court ruling if he believes doing so is in the nation's interest.

APPENDIX

“2007 Annenberg Judicial Survey.”

Conducted by Princeton Survey Research Associates International for the Annenberg Public Policy Center. The survey polled 1,514 adults 18 and over between August 8 and September 2, 2007. The margin of error was plus or minus three percentage points.

“Judicial Independence, September 2006.”

Conducted by Princeton Survey Research Associates International for the Annenberg Public Policy Center. The survey polled 1,002 adults 18 and over between August 3 and 16, 2006. The margin of error was plus or minus three percentage points.

“Annenberg Supreme Court Survey: Lawyers and the Public, 2005.”

Conducted by Princeton Survey Research Associates International for the Annenberg Foundation Trust at Sunnylands and the Annenberg Public Policy Center. The survey polled 1,500 adults aged 18 years and older and was conducted between March 16 and April 18, 2005. The margin of error was plus or minus three percentage points.

Annenberg Public Policy Center senior researchers Michael Hennessy and Bruce Hardy helped create this survey and conducted the analyses we report here.

STATES THAT HOLD PARTISAN ELECTIONS FOR SOME OR ALL OF THEIR JUDGES

Sixteen states elect at least some judges in an environment in which there are strong partisan cues including, in some states, party identification on the ballot. They are Alabama, Illinois, Indiana, Kansas, Louisiana, Maryland*, Michigan, Missouri, New Mexico, New York, North Carolina**, Ohio***, Pennsylvania, Tennessee, Texas and West Virginia.

*Maryland trial judges run in contestable non-partisan general elections but are nominated in party primaries. A candidate in Maryland can cross file in both the Democratic and Republican primaries.

**Although North Carolina moved away from an explicitly partisan ballot in 2002 some partisan campaigning has continued.

***In Ohio, candidates appear on the ballot without party affiliation, but their selection and campaigns are otherwise partisan.

Source: Roy Schotland, (2007). New Challenges to States' Judicial Selection. The Georgetown Law Journal, vol. 95, p. 1077.