

What Do The American People Think About the 2021 Supreme Court Cases?

Results from SCOTUSPoll, a collaboration between researchers at the Harvard Kennedy School of Government, the Stanford Graduate School of Business, and the University of Texas

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This memo reports results from the 2021 SCOTUSPoll, a nationally representative survey of American's attitudes on the major Supreme Court cases argued during the 2020-2021 term. The survey was conducted by YouGov using a nationally representative sample of 2,158 U.S. adult residents interviewed online between April 7–16, 2021. The poll's margin of error is $\pm 2.3\%$.

The goal of the survey is to gauge how Americans feel about the major topics being decided by the Supreme Court in advance on the Court issuing decisions in the summer. Regular surveys of Americans report whether they agree or disagree with decisions made by Congress and by the President; this survey applies the same attention to Americans' attitudes on issues handled by the Court. This kind of investigation is critical: Given the Court's 6-3 conservative majority as well as our highly polarized political landscape, it is possible that the Court will be out of step with the Americans' attitudes, thus undermining its public standing and legitimacy. Although the Court is not designed to be a majoritarian institution, these data help us understand the extent to which Court decisions are in step with Americans' attitudes.

Summary of Results

The purpose of the survey is to assess how people would feel about the actual case outcomes as opposed to the legal arguments or jurisprudential considerations. We therefore selected major cases from the 2020-2021 term as identified by important media outlets and other Court observers. For all questions, half the respondents received the questions as worded below, whereas half received versions where the options were reversed.

Looking at responses over the cases asked about, the public is slightly more likely to take the liberal (51.8%) than the conservative (48.2%) position. The case where the most Americans back the liberal position involves the questions of whether the U.S. Constitution requires that juvenile defendants be found incapable of reform (be "incorrigible") in order to receive life sentences (70.6% of respondents said yes, including nearly two-thirds of Republicans). Conversely, in the case where the highest share of Americans back the conservative position, 70.5% of all

respondents said that schools should be able to punish students for speech taking place outside of school, including nearly two-thirds of Democratic respondents. It will be important to see how the Court decides these issues given that there is now a clear conservative majority on the Court.

The public is narrowly divided on several prominent issues such as whether the tax penalty in the Affordable Care Act is constitutional, whether governments can bar foster agencies that refuse to place children with same-sex couples, and how states handle election integrity claims versus concerns about vote suppression.

Some of the cases included in this term's SCOTUSpoll showed large partisan differences in respondents' views, but others — such as juvenile sentencing, the structure of federal agencies, and the improper use of governmental databases — yielded similar levels of support across party identifications.

Issue: Gay Adoption

Cases #1. *Fulton v. City of Philadelphia PA*

There are some religiously affiliated foster agencies that refuse to place foster children with same-sex couples.

Some people think that governments can prohibit such agencies from participating in the foster care systems they operate unless the agencies allow children to be placed with same-sex couples. Other people think that doing so would violate the agencies' First Amendment rights to religious freedom.

What do you think?

Prohibiting religious agencies from participating in the foster care system unless they allow children to be placed with same-sex couples DOES NOT VIOLATE agencies' First Amendment rights to religious freedom

Prohibiting religious agencies from participating in the foster care system unless they allow children to be placed with same-sex couples DOES VIOLATE agencies' First Amendment rights to religious freedom

	All Respondents	Democrats	Republicans	Independents/Other
DOES NOT VIOLATE	47.8%	60.6%	35.4%	42.8%
VIOLATES	52.2	39.4	64.6	57.2

N = 2,156

Issue: ACA Individual Mandate

Cases #2. California v. Texas (Issue 1)

Under the Affordable Care Act (ACA), there is a tax penalty for not buying health insurance. This is called the individual mandate. Recent legislation has set the tax penalty for not buying health insurance to \$0. Some people believe that, because the tax penalty is \$0, this means that the penalty is actually not a tax and it exceeds the federal government's power to tax and is unconstitutional. Other people believe that it does not exceed the federal government's power to tax and is constitutional.

What do you think?

The individual mandate provision is not a tax and is UNCONSTITUTIONAL because it exceeds the federal government's power

The individual mandate provision is a tax and is CONSTITUTIONAL because it does not exceed the federal government's power

	All Respondents	Democrats	Republicans	Independents/Other
UNCONSTITUTIONAL	55.8%	38.5%	73.6%	60.1%
CONSTITUTIONAL	44.2	61.5	26.4	39.9

$N = 2,156$

Issue: ACA Severability

Case #3. *California v. Texas* (Issue 2)

Under the Affordable Care Act (ACA), there is a tax penalty for not buying health insurance. This is called the individual mandate. Some people think that if the individual mandate is unconstitutional then the entirety of the ACA must also be unconstitutional. Other people disagree and think that if the individual mandate is unconstitutional, that should not affect the rest of the law.

What do you think?

If the individual mandate is unconstitutional, then the ENTIRE LAW SHOULD BE STRUCK DOWN

If the individual mandate is unconstitutional, that should NOT AFFECT THE REST OF THE LAW

	All Respondents	Democrats	Republicans	Independents/Other
ENTIRE LAW SHOULD BE STRUCK DOWN	46.7%	26.0%	67.4%	50.0%
NOT AFFECT REST OF THE LAW	53.3	74.0	32.6	50.0

$N = 2,158$

Issue: Out of Precinct Ballot Counting

Case #4. *Brnovich v. Democratic National Committee I*

In Arizona, if a voter arrives at a polling place and is not listed on the voter roll for that precinct, the voter may still cast a provisional ballot. After election day, Arizona election officials review all provisional ballots to determine the voter's identity and address. If officials determine that the voter voted outside of their precinct, the ballot is discarded in its entirety, even if the voter was eligible to vote in most of the races on the ballot. Some people believe that discarding entire ballots in this manner is unlawful. Other people believe that it is lawful.

What do you think?

Discarding entire ballots from voters who voted outside of their precinct IS UNLAWFUL

Discarding entire ballots from voters who voted outside of their precinct IS LAWFUL

	All Respondents	Democrats	Republicans	Independents/Other
UNLAWFUL	50.9%	66.9%	35.4%	44.3%
LAWFUL	49.1	33.1	64.6	55.7

$N = 2,157$

Issue: Third Party Ballot Delivery

Case #5. *Brnovich v. Democratic National Committee II*

Arizona offers in-person voting at a precinct or vote center either on election day or during an early-vote period. Many voters -- particularly racial minorities -- who vote early rely on another person to collect and drop off voted ballots. However, the Arizona legislature made it illegal to collect and deliver another person's ballot. Some people think that voters should be able to rely on another person or third party to collect and drop off ballots. Other people think that states can forbid this.

What do you think?

Voters SHOULD BE ABLE to rely on another person or third party to collect and drop off ballots

STATES CAN FORBID voters from relying on another person or third party to collect and drop off ballots

	All Respondents	Democrats	Republicans	Independents/Other
Voters SHOULD BE ABLE	50.0%	69.8%	26.6%	46.1%
STATES CAN FORBID	50.0	30.2	73.4	53.9

$N = 2,158$

Issue: Nonprofit Donor Disclosure Requirement

Case #6. *Americans for Prosperity Foundation v. Becerra*

To detect possible fraud, the attorney general of California requires private nonprofit organizations to report the names and addresses of their major donors to the state, which keeps this information confidential. Some people think that this violates nonprofit organizations' First Amendment rights to free association because it might deter people from financially supporting them. Other people do not think that this violates nonprofit organizations' First Amendment rights to free association.

What do you think?

Requiring nonprofit organizations to report information to the state about their major donors
VIOLATES their First Amendment rights

Requiring nonprofit organizations to report information to the state about their major donors
DOES NOT VIOLATE their First Amendment rights

	All Respondents	Democrats	Republicans	Independents/Other
VIOLATES	40.0%	26.1%	55.9%	39.3%
DOES NOT VIOLATE	60.0	73.9	44.1	60.7

$N = 2,157$

Issue: Student Speech Outside of School

Case #7: *Mahanoy Area School District v. B.L.*

Some people think that public school officials can punish students for things they say or write off campus, including on social media, without violating students' First Amendment rights to free speech. Other people think that such punishments violate students' First Amendment rights to free speech.

What do you think?

Public school officials CAN punish students for things they say or write off campus

Public school officials CANNOT punish students for things they say or write off campus

	All Respondents	Democrats	Republicans	Independents/Other
CAN punish	29.5%	35.9%	21.2%	27.9%
CANNOT punish	70.5	64.1	78.2	72.1

$N = 2,158$

Issue: Life Sentences for Juveniles

Case #8: *Jones v. Mississippi*

There are states that reserve the ability to sentence juvenile criminal defendants to life sentences without the possibility of any parole. Some people think that such juvenile defendants must be found to be incorrigible -- or impossible of being reformed -- before being sentenced to life without parole. Other people think that juveniles can be sentenced to life sentences without parole without states having to make such a determination.

What do you think?

Juvenile defendants **MUST BE FOUND** to be incorrigible before being sentenced to a life sentence without parole

Juvenile defendants **NEED NOT BE FOUND** to be incorrigible before being sentenced to a life sentence without parole

	All Respondents	Democrats	Republicans	Independents/Other
MUST BE FOUND	70.6%	77.0%	64.3%	69.0%
NEED NOT BE FOUND	29.4	23.0	35.7	71.0

$N = 2,158$

Issue: Abuse of Government Databases

Case #9: *Van Buren v. United States*

Law enforcement officers have access to several government databases to use for investigations and other law enforcement activities. Some people believe that using government databases for uses not explicitly authorized should be punished, even if the user had lawful access to the database. Others believe that using government databases for other uses not explicitly authorized should not be punished, so long as the user had lawful access to the database.

What do you think?

Using government databases for uses not explicitly authorized SHOULD BE PUNISHED

Using government databases for uses not explicitly authorized SHOULD NOT BE PUNISHED

	All Respondents	Democrats	Republicans	Independents/Other
SHOULD BE PUNISHED	68.1%	67.8%	67.0%	69.4%
SHOULD NOT BE PUNISHED	31.9	32.2	33.0	30.6

N = 2,157

Issue: NCAA Athlete Compensation

Case #10: *National Collegiate Athletic Association v. Alston*

The National Collegiate Athletic Association (NCAA) strictly limits colleges and universities from providing paid compensation to college athletes. Some people think the NCAA's strict limits on paid compensation for college athletes in this manner is an unlawful form of coordination against athletes. Others disagree and think that the NCAA should be able to strictly limit colleges and universities from providing paid compensation to college athletes.

What do you think?

The NCAA SHOULD NOT BE ABLE TO strictly limit paid compensation to college athletes.
The NCAA SHOULD BE ABLE TO strictly limit paid compensation to college athletes.
state

	All Respondents	Democrats	Republicans	Independents/Other
SHOULD NOT BE ABLE TO	49.9%	58.2%	39.8%	48.6%
SHOULD BE ABLE TO	50.1	41.8	60.2	51.4

$N = 2,157$

Issue: COVID Limits on Church Capacity

Case #11: *Roman Catholic Diocese of Brooklyn v. Cuomo*

Many states have prohibited large in-person gatherings due to the COVID-19 pandemic. Some people think that states cannot prohibit in-person religious gatherings because of the First Amendment right to free exercise of religion. Other people think that states can prohibit in-person religious gatherings.

What do you think?

States CANNOT prohibit in-person religious gatherings because of the First Amendment right to free exercise of religion

States CAN prohibit in-person religious gatherings despite the First Amendment right to free exercise of religion

	All Respondents	Democrats	Republicans	Independents/Other
CANNOT	53.6%	28.6%	75.6%	60.5%
CAN	46.4	71.4	24.4	39.5

$N = 2,157$

Issue: Union Access to Workplaces

Case #12: *Cedar Point Nursery v. Hassid*

California law requires that employers allow union representatives to enter a company's private property to meet with employees and solicit support for labor organizing. Some people believe that this is akin to the government taking companies' private property without compensation. Other people argue that the law is acceptable, and is not the government taking companies' private property without compensation.

What do you think?

States CANNOT require that employers allow union representatives to enter a company's private property

States CAN require that employers allow union representatives to enter a company's private property

	All Respondents	Democrats	Republicans	Independents/Other
CANNOT	51.6%	34.7%	69.1%	53.6%
CAN	48.4	65.3	30.9	46.4

$N = 2,158$

Issue: Federal Agency Structure

Case #13: *Collins v. Mnuchin*

Some federal government agencies -- such as the Federal Housing Finance Agency -- are headed by a single director who may be removed from office by the president only for a specific cause rather than for any reason the president wishes. Some people think that this leadership structure is unconstitutional because it infringes on the president's authority over the executive branch, including such federal agencies. Other people disagree and think that this leadership structure is not unconstitutional because it does not infringe on the president's authority over the executive branch.

What do you think?

Limiting the president to only firing agency heads for a specific reason INFRINGES on the president's authority

Limiting the president to only firing agency heads for a specific reason DOES NOT INFRINGE on the president's authority

	All Respondents	Democrats	Republicans	Independents/Other
INFRINGES	45.5%	41.2%	51.4%	43.7%
DOES NOT INFRINGE	54.5	58.8	48.6	56.3

$N = 2,157$

Issue: Warrantless Home Entry in Police Pursuit

Case #14: *Lange v. California*

Police officers sometimes pursue people who flee in cars and who refuse to pull over. Some people think that a police officer should be able to enter someone's home without a warrant if they are in pursuit of them when that person enters their home. Other people think that it is unconstitutional for police to enter someone's home without a warrant except when there is a genuine emergency.

What do you think?

Police SHOULD be able to enter someone's house without a warrant if they are in pursuit of them when that person enters their home

Police SHOULD NOT be able to enter someone's house without a warrant if they are in pursuit of them when that person enters their home

	All Respondents	Democrats	Republicans	Independents/Other
SHOULD	47.6%	39.8%	57.1%	50.2%
SHOULD NOT	52.4	60.2	42.9	49.8

$N = 2,158$