

Messaging Recommendations

General Principles:

- **Focus on the Court's power.** Voters agree that lifetime appointments give the justices too much power. In a democracy, no one should hold this much power for life.
- **The justices are out of touch.** When criticizing the Court, point out that the justices are biased, too powerful, and out of touch with the public.
- **Keep it simple.** When advocating for term limits to most audiences, avoid details such as the length of term or the cadence of the appointment process.
- **Frame positively.** Present term limits as a positive change (e.g., “replacing lifetime appointments”) rather than as a restriction (e.g., “limiting justices to an 18-year term”).
- **Separate term limits from Court expansion.** Don't associate term limits with the idea of expanding the Court, even temporarily.

Segmented Audiences:

Democratic audience:

- Frame term limits as a way to constrain power, give presidents equal impact on the Court, and decrease the potential for the justices to abuse their power.
- Be mindful that many Democrats are skeptical about the feasibility of enacting term limits and their ability to truly fix the Court's issues.

Republican audience:

- Frame term limits as a way to constrain public power and emphasize John Roberts's past support for term limits.
- Do not frame term limits as a response to the Court's conservatism or specific rulings.
- Be mindful that many Republicans see term limits as contrary to the intentions of the founders and as a Democratic power grab aimed at watering down the influence of the conservative majority.

Independent audience:

- Frame term limits as a way to promote regular turnover on the Court, keeping it connected to society and ensuring new voices and viewpoints on the bench, as well as a way to constrain power.
- Be mindful that Independents are skeptical about the feasibility of enacting term limits, and many see the push for term limits as a distraction from more pressing economic challenges like inflation and support for struggling families.

Findings

Perception of the Supreme Court:

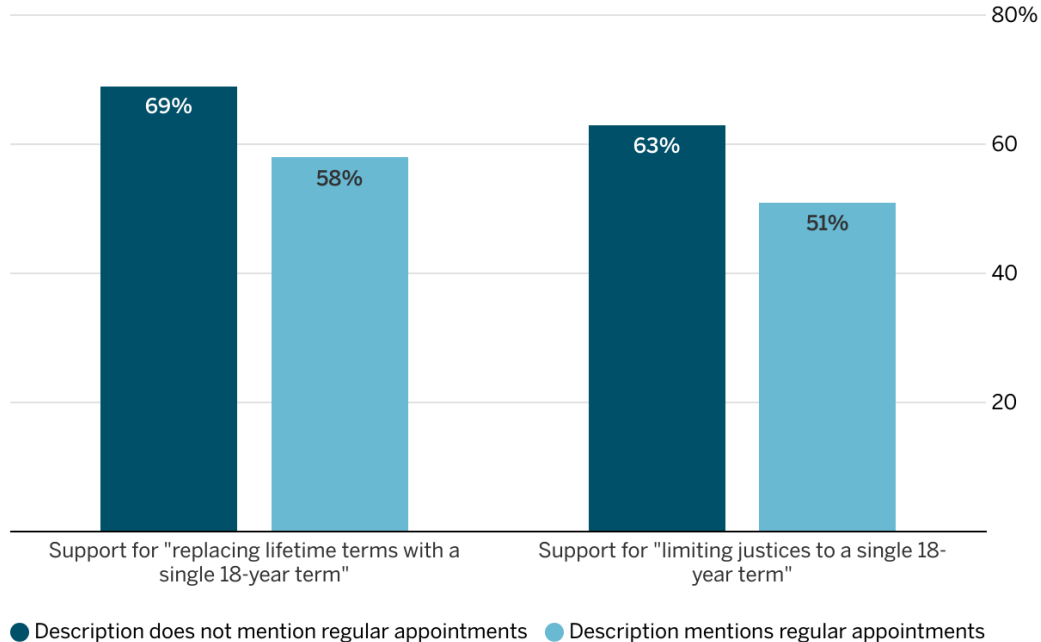
- Public trust in the Supreme Court as an institution is historically low (44% of voters trust the Court), but it is still viewed more favorably than other institutions and politicians, such as the president, Congress, and the news media.
- Less than half of voters trust the Court to make good/the right decisions.
- Most voters believe the Court's top priorities should be ensuring freedom as envisioned in the Constitution and guaranteeing that citizens' voices are heard in democracy.
 - More than one-third of Republicans believe the Court should prioritize originalism and textualism.
- Voters' top concerns about the Supreme Court are that it is politically biased and too powerful.

Support for Reform:

- Voters broadly support some form of Court reform.
- Most voters (76%) across party lines support an ethics code for the Supreme Court.
- Most voters (69%) support 18-year term limits.
 - Term limits were more popular when described as a plan to “replace lifetime terms” rather than “limit justices to a single term.”
 - Support for term limits is higher and more bipartisan when the description of the proposal does not mention that presidents will nominate two justices per four-year term.
 - Note: This had the biggest impact on Independents. Independents' support for term limits was 14 percentage points lower when the description mentioned regularized appointments.

Voter Support for Term Limits, by Description

Term limits are more popular when described simply and affirmatively.



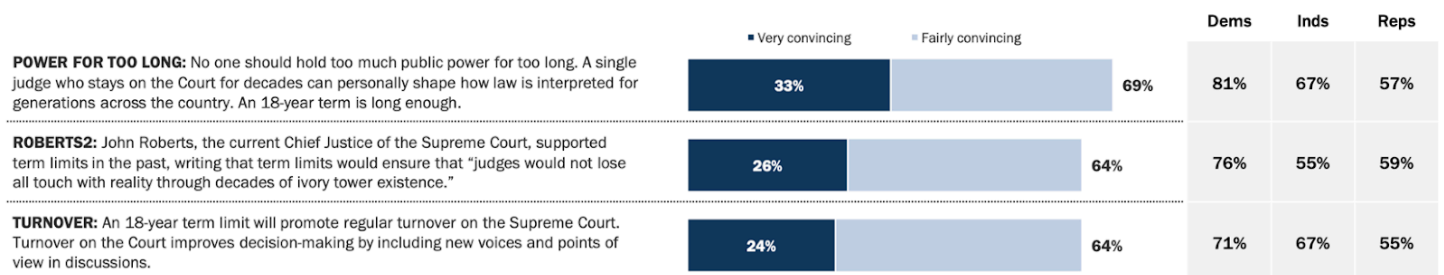
- Voters support the idea of term limits more than they support the details of the proposal. This is especially true among Republicans.
 - Prospective vs. retrospective application:
 - More than half of voters (55%) oppose a term limits proposal that does not apply to current justices and temporarily expands the Court.
 - More than half of voters (55%), especially Democrats, support the idea of existing justices stepping down to allow new justices to join the Court.
 - Nomination schedule:
 - More than half of voters (54%), especially Democrats, support having every president nominate two justices per four-year term.
 - Senior status:
 - Most voters support justices taking on senior status after their term ends.
 - Note: Support for senior status drops by 5 percentage points when the description does not mention that this system already exists in lower federal courts, driven by an 11-point drop in Republican support.
 - Statute vs. amendment:

- Democrats and Independents show slightly greater support for enacting term limits by statute than by amendment, while the opposite is true for Republicans.
- Court expansion:
 - Most voters oppose Court expansion, with only 46% supporting the idea, largely driven by Democrats.
 - When asked to choose, voters prefer term limits over Court expansion by a 2-to-1 ratio.
 - Less than half (43%) of Independents support Court expansion, though 21% are unsure.

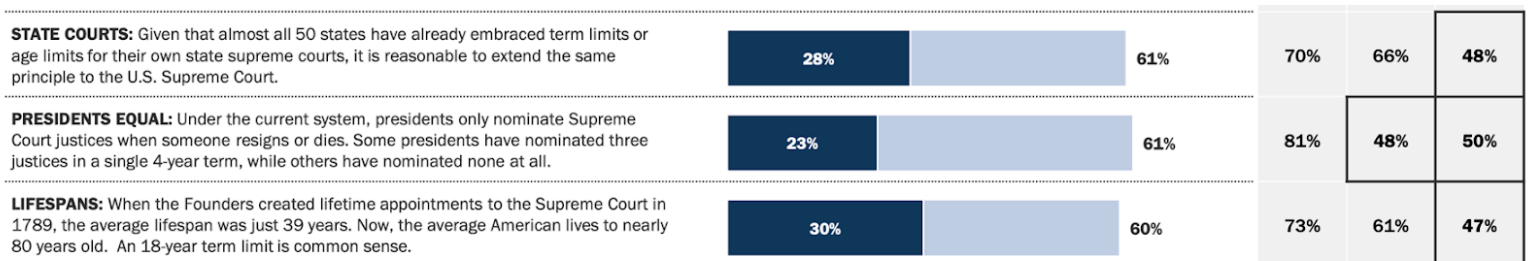
Messaging:

Arguments for term limits

- **Most convincing pro-term limits messages:** The arguments with the most bipartisan appeal focused on reducing the concentration of power in the hands of the justices and keeping the Court in touch with society. (NOTE: These charts will be replaced by new data viz)



- **Additional convincing messages:** Arguments that focused on following the example of state courts, giving presidents equal opportunity to shape the Court, and accounting for longer lifespans were also deemed convincing by most voters.
 - However, these messages had less bipartisan appeal, with half or fewer Republicans finding them persuasive.

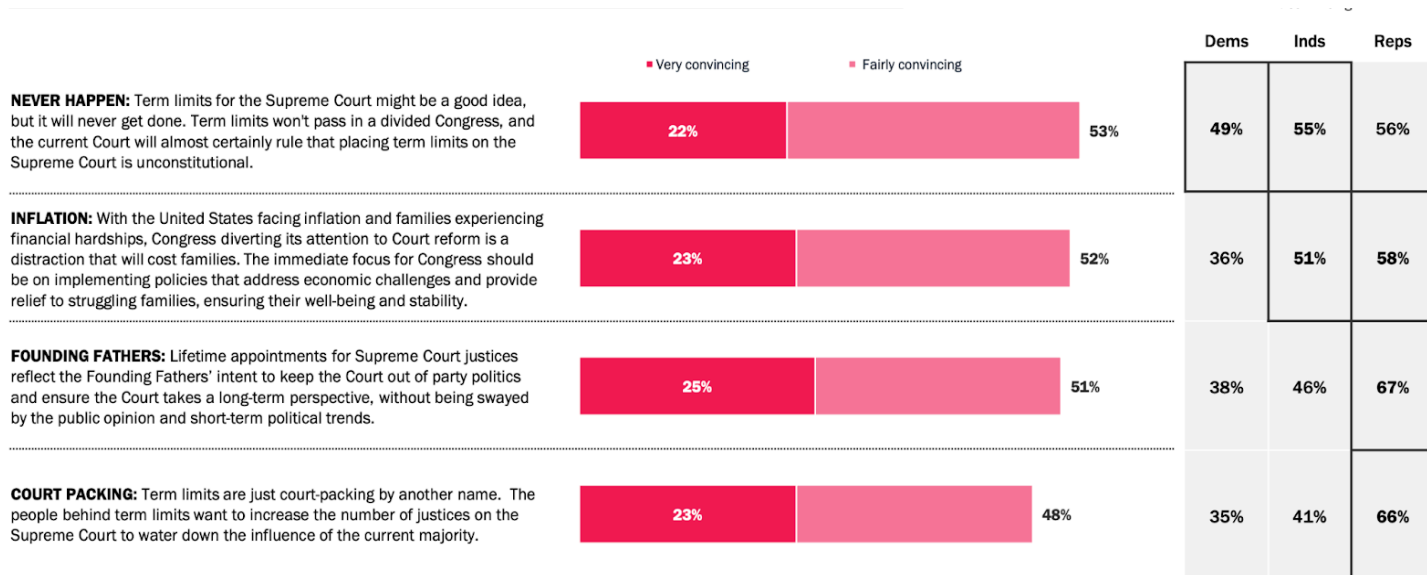


- **Less effective pro-term limits messages:**

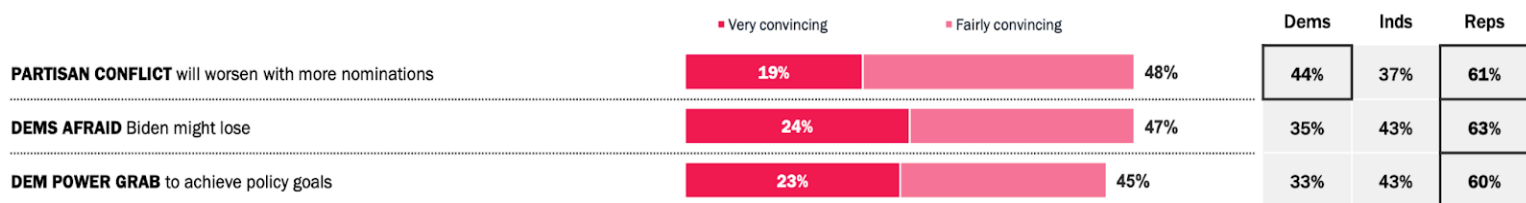
- Messages that invoke partisanship, specific controversial issues (e.g., abortion, guns, affirmative action), and historical precedent were less effective, particularly among Republicans and, to a lesser extent, Independents.
- Arguments that framed term limits as protection against Trump, a check on radical decision-making, or in line with Congress's past changes to the Court were also unconvincing to most voters, especially Republicans. Less than half of voters found these arguments persuasive.
- Most voters were not convinced by arguments that focused on the age of the current justices or suggestions that term limits will help ensure that justices only serve during their most effective years.

Arguments against term limits

- There was less overall support for arguments against term limits compared to pro-term limits arguments. Independents and Republicans were more likely to find arguments against term limits to be persuasive.
- **Most convincing anti-term limits messages:** More than half of voters were convinced by messages focusing on the infeasibility of getting term limits enacted, term limits distracting Congress from more important economic issues, and term limits going against the intentions of the founders.



- **Other convincing anti-term limits messages:**
 - Pluralities of voters across parties shared concerns that more frequent nominations would increase partisan clashes.
 - Independents and Republicans shared suspicions that Democrats are pushing term limits because they're afraid of losing the 2024 election and want to water down conservative influence on the Court.



Messaging effectiveness by party: (NOTE: Data viz will be revised)

Most Persuasive Arguments For and Against Term Limits, By Party

For term limits

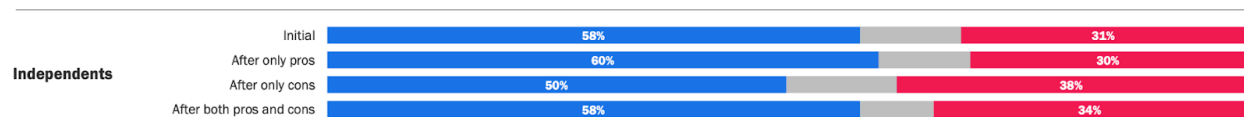
	Democrats	Republicans	Independents
1	No one should hold too much public power for too long.	John Roberts supported term limits in the past to ensure that "judges would not lose all touch with reality through decades of ivory tower existence."	Lifetime appointments create an elite and out-of-touch judiciary. Regular turnover will ensure justices remain connected to society.
2	Regular nominations and an 18-year term limit will ensure a fair distribution of appointments for all presidents.	No one should hold too much public power for too long.	No one should hold too much public power for too long.
3	The Clarence Thomas ethics allegations prove we need term limits to reduce the potential for abuse on the Court and ensure it operates with the highest ethical standards.	An 18-year term limit will promote regular turnover on the Court, which improves decision-making by including new voices and points of view.	An 18-year term limit will promote regular turnover on the Court, which improves decision-making by including new voices and points of view.

Against term limits

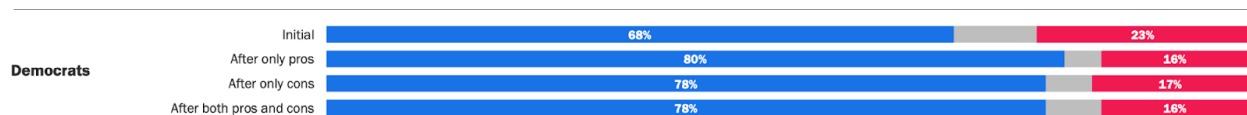
1	Term limits are not going to change anything in the near future. We need to expand the Court before more damage is done to our country.	Founders wanted lifetime appointments to keep the Court out of party politics and prevent it from being swayed by public opinion or political trends.	Term limits might be a good idea, but it will never get done. It won't pass Congress or will be struck down by the Court.
2	Term limits might be a good idea, but it will never get done. It won't pass Congress or will be struck down by the Court.	Term limits are just court-packing by another name. Its supporters want to water down the influence of the current majority.	Term limits are a distraction, and Congress should be focusing on addressing economic challenges like inflation and helping struggling families.
3	The Court has protected Obamacare from being overturned 3 times. There is no need to change the Court.	Democrats are pushing term limits because they're afraid of losing the 2024 election and want to reduce the power of Trump's appointees.	Founders wanted lifetime appointments to keep the Court out of party politics and prevent it from being swayed by public opinion or political trends.

- Independents:

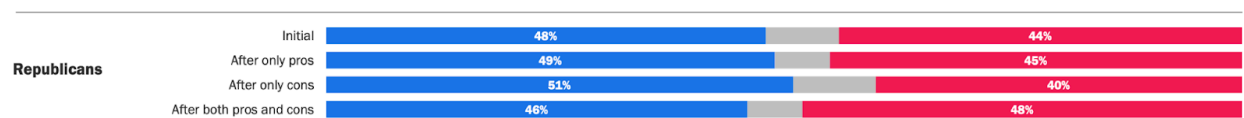
- Independents were most convinced by arguments that emphasized regular turnover to bring fresh perspectives to the Court and keep it in touch with society.
- Independents were especially susceptible to anti-term limits messaging, particularly arguments about the infeasibility of the proposal and the distraction from economic issues.
- Independent support for term limits was unchanged after receiving both pro and con messages.



- Democrats:
 - Democrats were more likely to be convinced by arguments that framed term limits as a way to give presidents equal opportunity to shape the Court and a response to recent ethics scandals. These arguments were less persuasive among Republicans and Independents.
 - Democratic support for term limits increased significantly regardless of whether they received pro- or anti-term limits messages.



- Republicans:
 - Republicans were most resistant to messages that framed term limits in partisan terms or linked to specific issues.
 - Republican support for term limits remains largely unchanged regardless of whether they receive pro- anti-term limits messages.



Perspectives from Experts

On ethics reform:

- Broad consensus on necessity: Like the general public, experts agree that adopting an ethics code is a necessary reform for the Supreme Court. But experts don't believe it will significantly alter the Court's decisions or processes.

- Mixed views on impact of ethics reform on term limits: Experts were divided on whether pushing for ethics reform would help or hurt the case for term limits.
- Some believed that starting small with ethics reform would help build momentum for term limits by showing that Court reform is possible and the justices are not beyond Congress's reach.
- Others worried that achieving significant ethics reform would kill term limits' chances by making people falsely believe that the Court's problems were solved.
- Others felt ethics reform would make no difference to the case for term limits since these reforms intend to address very different problems, and term limits are a structural reform while an ethics code is not.

On Court expansion:

- Several experts viewed court expansion as a necessary first step to achieving term limits, with many arguing that the current Court is likely to strike down any attempts at reform.
- They also argued that court expansion is more feasible in the short term, while term limits will take more time to achieve.

On term limits:

Constitutionality:

- Both the public and elites share concerns about Congress's constitutional authority to enact term limits.
- Divergent views: Experts see the validity of both sides of the constitutionality argument. Many agree that the "good behavior" clause can feasibly be interpreted to mean guaranteed lifetime appointments. But they also agree that senior status could serve as a workaround, allowing justices to retain their commission without actively serving on the Court.
- Regardless of their own interpretation, experts largely agree that a majority of the Court would strike down term limits if they were enacted.
- Experts also flagged the political backlash of having Congress enact term limits and the possibility that achieving the reform by statute will increase doubts about its legitimacy.

Retrospective vs. prospective application:

- Experts overwhelmingly preferred term limits to apply to the current justices. However, they recognized that applying term limits retrospectively may be politically unwise. They believed that the reform would be more unpopular and perceived as unfair, especially among conservatives, if applied to the current justices.

- One expert noted that the downside of applying term limits prospectively is that it would require temporary Court expansion, which is also politically controversial (as confirmed by our own BCJ research).

Messaging strategies:

- Experts agree that it's best to avoid excessive details when advocating for term limits. Instead, the messaging should focus on the results of the reform rather than the process of implementing it.
- Experts recommend emphasizing regular turnover as the main benefit of term limits and the key to fixing the Court. They stressed the need to clearly connect term limits to a more accountable and democratic Court.
- Many experts felt that providing historical context is important to justify the need for term limits (e.g., lifespans are much longer today compared to the founding era, the Court's power has grown significantly, etc.).
- Some experts emphasized the importance of helping voters understand how Supreme Court decisions directly affect their lives in concrete ways to help demonstrate the need for a responsive and fair Court.
- Several experts advised highlighting the Court's current legitimacy crisis to justify the need for reform.

On long-term strategy for Court reform:

- Experts see Court reform as a long-term project that will require the Brennan Center and peer organizations to create pressure and build support from the bottom up.
- Ultimately, the aim is to generate enough public support and political pressure so that candidates and election officials will face significant downside if they continue to oppose Court reform. This will require sustained effort and advocacy at the grassroots level.