

# Marquette University: Public views of Justice Ginsburg and appointments to the Supreme Court

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MILWAUKEE — Justice Ruth Bader Ginsburg, who died on Sept. 18, was the best known of the current justices, according to a new Marquette Law School national survey of public opinion of the Supreme Court, completed three days before her death.

While few of the justices have become household names, Ginsburg was the best known of the current justices, with 63 percent of respondents saying they knew enough about her to have a favorable or unfavorable opinion. She was seen favorably by 44 percent and unfavorably by 19 percent of adult respondents nationwide. By comparison, Chief Justice John Roberts was recognized and rated by 41 percent, while the most recently confirmed member of the Court, Justice Brett Kavanaugh, was almost as well-known as Ginsburg, with 60 percent.

The vacancy on the Court created by Ginsburg's death greatly increases the salience of a possible appointment to the Court in the midst of a presidential election campaign. In the survey, 48 percent say that the choice of the next justice is very important to them and 34 percent say it is somewhat important, while 17 percent say it is not too important or not at all important to them.

Among likely voters who support Democratic presidential nominee Joe Biden, 59 percent say that the next court appointment is very important, while 51 percent of likely voters who support President Donald J. Trump say this.

The importance of Court appointments, by vote choice, is shown in Table 1.



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The question of holding hearings and a vote on confirming a new justice immediately became an issue with Justice Ginsburg's death, as it had following the death of Justice Antonin Scalia in 2016. In this poll, conducted in the days before Ginsburg's death, a substantial majority of respondents of both parties say that if a vacancy occurred during the 2020 election year, the Senate should hold hearings on a nominee, with 67 percent saying hearings should be held and 32 percent saying they should not be held. Views on holding hearings do not vary much by partisanship, as shown in Table 3. This table will provide a baseline from before there was a vacancy against which to measure any future change in partisan views, if a nomination is made and considered.

*Table 3: Hold hearings on a nominee in 2020, by party identification*

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By contrast, partisans are much more divided on whether the decision not to hold hearings in 2016 on the nomination of Merrick B. Garland was the right or wrong thing to do. Among all adults, 25 percent say that not holding hearings was the right thing to do, while 73 percent say that it was the wrong thing to do. Among Republicans, 45 percent say that not holding hearings was the right thing to do, but only 15 percent of Democrats agree. The full responses by party are shown in Table 4.

*Table 4: Was decision not to hold hearings on nomination of Merrick Garland the right or wrong thing to do, by party identification*



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In contemplating the possibility of a vacancy this year, the poll looked ahead to a confirmation debate. In the survey, 41 percent say that senators would be justified in voting against an otherwise qualified nominee “simply because of how they believe the Justice would decide cases on issues such as abortion, gun control or affirmative action,” and 58 percent say that senators would not be justified in opposing a nominee for this reason.

Just 21 percent say that a senator would be justified in voting against a nominee simply because of the political party of the president who made the nomination, while 78 percent say this is not a justification for voting against an otherwise qualified nominee.

Fifty-one percent of respondents say that nominees should be required to publicly declare how they would vote on controversial cases before they are confirmed, while 48 percent say nominees should not be required to do so.

The poll shows a substantial partisan split on support for increasing the number of justices on the Supreme Court, shown in Table 5. Among Democrats, 61 percent favor or strongly favor increasing the number of justices, while 39 percent oppose an increase. Among Republicans, 34 percent favor or strongly favor an increase, and 65 percent oppose an increase.

*Table 5: Support or oppose increasing the number of justices, by party identification*

REPUBLICAN INDEPENDENT

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The full results of the poll will be released Sept. 23-25.

### **About the Marquette Law School Poll**

The survey was conducted Sept. 8-15, 2020, interviewing 1,523 adults nationwide, with a margin of error of +/-3.6 percentage points. Interviews were conducted by the National Opinion Research Center using its AmeriSpeak Panel, a national probability sample, with interviews conducted online. The detailed methodology statement, survey instrument, topline results, and crosstabs for this release are available at <https://law.marquette.edu/poll/category/results-and-data/>.