

Marquette University: Marquette Law Poll Guide: Justice Breyer data from U.S. Supreme Court surveys, 2019-22

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MILWAUKEE —Even to the day it was reported that Justice Stephen Breyer is retiring from the U.S. Supreme Court, he consistently ranked as the justice whom the fewest Americans know.

In [results released on Wednesday, Jan. 26](#), before word of Breyer's plans circulated, the Marquette Law School Poll's Supreme Court Survey found that only 21% of people nationwide said they knew enough about Breyer to have an opinion about him.

But, Breyer's impending departure from the Court puts on the front burner the nomination and confirmation process for members of the Court, and the Marquette Law Poll surveys provide insight into public opinion about how those steps have been handled in recent years.

The Marquette Law Poll has examined nationwide opinion about the Supreme Court six times, beginning in 2019. This news release describes what has been found about opinions of Breyer and of the way court selections have been handled.

Justice Breyer Favorability

Justice Breyer has consistently been the least well-known justice among the general public, with fewer than 25% able to offer an opinion of him.

Table 1 shows the public's ability to rate, and the favorability ratings, of all nine justices in the Jan. 10-21, 2022, survey. All numbers in tables are percentages.

Table 1: Recognition and favorability ratings of justices, January 2022

Justice	Able to rate	Net favorability	Favorable	Unfavorable
Samuel Alito	26	6	16	10
Amy Barrett	46	-2	22	24
Stephen Breyer	21	7	14	7
Neil Gorsuch	29	1	15	14
Elena Kagan	28	8	18	10
Brett Kavanaugh	53	-11	21	32
John Roberts	38	12	25	13
Sonia Sotomayor	50	20	35	15
Clarence Thomas	55	5	30	25

The trend in favorability of Justice Breyer is shown in Table 2.

Table 2: Percent of people nationwide who rated Justice Breyer, and their ratings, September 2019-January 2022

Poll date	Able to rate	Net favorability	Favorable	Unfavorable
Sept. 3-13, 2019	16	6	11	5
Sept. 8-15, 2020	18	6	12	6
July 16-26, 2021	24	12	18	6
Jan, 10-21, 2022	21	7	14	7

“Should Justice Breyer retire?” from July 16-26, 2021

In the Marquette Law Poll’s Supreme Court survey of July 2021, a national sample of 1,010 adults were asked about the role of partisan control of the presidency and Senate in the timing of Supreme Court retirements.

A majority of the public thought that justices should not consider partisan control of the presidency and Senate when deciding the timing of their retirements. However, when given information that some Democrats were urging Justice Stephen Breyer to retire while there was a Democratic president and Democratic control of the Senate, more people supported a justice’s retiring with politics in mind, although it remained a minority overall.

When asked, “Do you think justices should consider the party in control of the White House and Senate as they decide when to retire?” 28% said justices should consider party control, while 72% said they should not consider this. This item was asked of a random half of all those surveyed at the time. The other random half of respondents was provided more information and context in the form of an alternative question: “Justice Stephen Breyer is 82 years old and the oldest member of the Court. He was nominated to the court in 1994 by President Clinton. Some Democrats are urging Breyer to retire now while there are a Democratic president and Senate. Do you think Justices should consider the party in control of the White House and Senate as they decide when to retire?” With this wording, 39% said justices should consider party control, while 60 percent said they should not.

The partisan information in the question boosted support for political timing of retirements across partisan identification among respondents, especially Democrats, as shown in Tables 3 and 4.

Table 3: “Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?,” July 2021

Party ID	Consider party control	Not consider party control
Republican	16	84
Independent	26	74
Democrat	41	59

Table 4: “Justice Stephen Breyer is 82 years old and the oldest member of the Court. He was nominated to the court in 1994 by President Clinton. Some Democrats are urging Breyer to retire now while there are a Democratic president and senate. Do you think Justices should consider the party in control of the White House and senate as they decide when to retire?,” July 2021

Party ID	Consider party control	Not consider party control
Republican	23	77
Independent	37	61
Democrat	58	42

Importance of the next nomination to the Supreme Court

Since 2019, the Marquette Law Poll’s national Supreme Court survey has asked how

important the next Supreme Court appointment is to the respondent. There has been only a little change in public opinion during this time, although Democrats became somewhat more concerned, until that percentage dropped in November 2021.

Table 5: "How important is the choice of the next Supreme Court justice to you personally?," September 2019-Nov. 2021

Poll dates	Very important	Somewhat important	Not too important	Not at all important
Sept. 3-13, 2019	47	31	15	7
Sept. 8-15, 2020	48	34	13	4
July 16-26, 2021	51	30	14	4
Sept. 7-16, 2021	52	31	14	3
Nov. 1-10, 2021	45	33	17	5

Importance of the next nomination to the Supreme Court, by party identification

Democrats saw Court nominations as more important to them than did Republicans in 2020 and 2021, although the percentage of Democrats saying "very important" fell in November 2021.

Table 6: "How important is the choice of the next Supreme Court Justice to you personally?" by party identification, September 2019-Nov. 2021

Party ID	Poll dates	Very important	Somewhat important	Not too important	Not at all important
Republican	Sept. 3-13, 2019	53	29	15	3
Republican	Sept. 8-15, 2020	48	33	14	4
Republican	July 16-26, 2021	48	29	15	8
Republican	Sept. 7-16, 2021	51	35	11	2
Republican	Nov. 1-10, 2021	43	42	13	3

Independent	Sept. 3-13, 2019	38	34	16	11
Independent	Sept. 8-15, 2020	39	37	16	8
Independent	July 16-26, 2021	46	33	15	5
Independent	Sept. 7-16, 2021	44	33	18	5
Independent					