

# PUBLIC (MIS)PERCEPTIONS OF SUPREME COURT IDEOLOGY

## A METHOD FOR DIRECTLY COMPARING CITIZENS AND JUSTICES

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**Abstract** Do people accurately perceive the Supreme Court's ideology in relation to their own positions? Which types of people are most likely to misperceive? Answering these questions is important for understanding the basis of public support for the Supreme Court. To do so requires placing the public and the Supreme Court on a common ideological scale. This study represents the first attempt to do so. We ask respondents how they would have voted on a set of cases recently decided by the Court, meaning that we can generate a comparable set of ideal points for both masses and elites in a common space. We find that the Court is generally representative of mass opinion and that most citizens have accurate perceptions of the Court. However, we also find that people are substantially more likely to misperceive the Court as being too liberal than too conservative.

Although the Supreme Court is structurally insulated from public pressures, given that its members are not popularly elected and serve lifetime appointments, scholars of judicial politics have argued that the Court relies on citizens to believe that its decisions and role in U.S. government are legitimate (Epstein and Knight 1998; McGuire and Stimson 2004; Casillas, Enns, and Wohlfarth 2011). Researchers have diverged in their views of the ease with which the Supreme Court is able to garner and maintain support among the public. An extensive research agenda

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(e.g., Caldeira and Gibson 1992; Gibson, Caldeira, and Spence 2003) has argued that the public generally views the Supreme Court as legitimate even if it disagrees with particular decisions the Court makes. This goodwill stems from the powerful symbols the Court possesses that exemplify justice, formalism, and legitimacy (Gibson et al. 2010; Woodson, Lodge, and Gibson 2011).<sup>1</sup>

However, other research argues that the Court can alienate some segments of society via particular decisions (Mondak 1992; Grosskopf and Mondak 1998; Hoekstra 2000, 2003; Egan and Citrin 2011). Two recent papers have found that people's ideological distance from the Court can affect support. Hetherington and Smith (2007) argue that despite the Court's rightward shift in the 1990s, political conservatives remain least supportive of the Court, suggesting that both liberals and conservatives remain mired in the image of the activist Warren Court. Challenging this framework, Bartels and Johnston (2013) argue that it is people's subjective perception of ideological distance that matters in predicting support, contending that it is not unreasonable for conservatives to perceive the contemporary Court as liberal.

These relationships and trends raise additional important questions about the extent to which these subjective perceptions are accurate. Do people accurately perceive the Court's ideology in relation to their own positions? Which types of people are most likely to misperceive? Addressing these questions requires placing the public and the Supreme Court on a common ideological scale. Our work represents the first attempt to do so. In previous studies, masses and elites are not "taking the same test," making it difficult to directly compare their responses. We build on the extant literature by asking respondents how they would have voted on a set of cases recently decided by the Court, meaning that we can generate a comparable set of ideal points for both masses and elites in a common space.<sup>2</sup>

## Research Design and Measurement

Data were collected as part of the 2010 Cooperative Congressional Election Study (CCES).<sup>3</sup> Interviews were conducted over the Internet by YouGov/

1. Recent research by Gibson and Caldeira (2009) has found that the politicization of the Court can reduce support because it makes people view it as just another democratically elected institution, such as Congress. For instance, negative advertising surrounding the Samuel Alito nomination damaged mass perceptions of legitimacy.

2. Our approach builds on recent research that has performed similar exercises for attitudes toward presidential candidates (Jessee 2009) and Congress (Ansolabehere and Jones 2010; Bafumi and Herron 2010).

3. The CCES is a large-scale, omnibus survey on political issues that first asked a series of common content questions shared across all researchers adding questions to the platform, followed by the individual researchers' studies. The CCES has been conducted six times since 2006 in advance of the November elections and has featured the participation of over fifty research institutions. More information about the 2010 study, including the full methodology report, can be found at the IQSS Dataverse (<http://projects.iq.harvard.edu/cces/book/cces-2010>).

Polimetrix between October 2, 2010, and November 1, 2010. The target population was U.S. adult citizens. All interviews were conducted in English. Because respondents were members of an opt-in Internet panel, a standard response rate cannot be calculated; 107,250 panelists were invited to take the CCES survey, of which 75,450 completed the interview. After agreeing to take the survey, 1,500 respondents were randomly assigned to the module in which our questions appeared. Consequently, in expectation, the completion rate for our module is equal to the completion rate for the entire CCES survey. Item non-response was not an issue in our data, as 1,497 respondents completed the full set of questions used in this analysis. While there are concerns that respondents of opt-in Internet surveys are more politically interested than the general population, YouGov/Polimetrix has developed sampling techniques to mitigate these concerns.<sup>4</sup>

We asked respondents to report how they would have voted in ten recent Supreme Court cases (see online appendix A for question wordings). All items were presented as dichotomous choices, similar to the outcomes of Supreme Court cases.<sup>5</sup> We chose ten cases decided by the Court under Chief Justice John Roberts that covered a diverse set of important issues and that could also be explained to respondents in a reasonable number of words.<sup>6</sup> A list of the cases is presented in [table 1](#), along with the percentage of respondents who agreed with the Court's decision in the case, the percentage who accurately identified the Court's position, and the percentage of respondents who perceived that they agree with the Court's decision. There is substantial heterogeneity across cases in accurate perceptions, with respondents sometimes doing better than chance and other times doing worse. These cases are by no means a random sample of all cases considered by the Court during this time period, but we nonetheless believe the outcomes reflect the general judicial ideology of the members of the Court.<sup>7</sup> To assuage concerns that these ten cases

4. YouGov/Polimetrix uses a technique called sample matching to draw representative samples of the U.S. population from its panel of voluntary survey participants (Rivers n.d.). YouGov/Polimetrix draws samples from nationally representative probability surveys (e.g., the American Community Survey, the Current Population Survey, the Pew U.S. Religious Landscape Survey) and then matches panelists to this target sample based on observable characteristics such as age, race, education, technology usage, and several other factors. Recent studies have shown that YouGov/Polimetrix samples do as well as more traditional data-collection techniques (e.g., RDD telephone interviewing) at matching known population benchmarks (Vavreck and Rivers 2008; Ansolabehere and Schaffner 2011). In estimating proportions and distributions, we apply post-stratification weights.

5. Unless stated otherwise, response options were randomly rotated (see online appendix A for further details).

6. The order of cases presented to respondents was randomized.

7. It is unclear how, short of literally taking a random sample of the cases heard by the Court, one could come up with a representative set of questions. Furthermore, because the Court, through the certiorari process, decides what cases it hears, it could be argued that even the Court's actual docket is not a representative sample of all cases it could possibly hear. While these issues are important, we do not directly address them here.

Table 1. Supreme Court Case Survey Questions

Case Name	Subject	Decision	Survey responses		
			Agreement	Correct perception	Perceived agreement
<i>Citizens United v. FEC</i> (2010)	Campaign finance	5-4	44.7%	64.5%	61.4%
<i>U.S. v. Comstock</i> (2010)	Sex offenders	7-2	55.5%	33.0%	65.8%
<i>McDonald v. Chicago</i> (2010)	Gun control	5-4	71.4%	76.9%	73.6%
<i>Salazar v. Buono</i> (2010)	Religious symbols	5-4	62.1%	41.2%	61.1%
<i>Ricci v. DeStefano</i> (2009)	Affirmative action	5-4	89.6%	76.3%	79.5%
<i>Crawford v. Marion County</i> (2008)	Voter ID	6-3	81.6%	71.6%	80.0%
<i>Baze v. Rees</i> (2008)	Lethal injection	7-2	78.8%	79.5%	75.3%
<i>Parents Involved v. Seattle</i> (2007)	Race and schools	5-4	84.8%	69	70.8%
<i>Gonzales v. Carhart</i> (2007)	Partial birth abortion	5-4	55.0%	51.3%	68.2%
<i>Hamdan v. Rumsfeld</i> (2006)	Guantanamo Bay	5-3	30.4%	38.0%	67.0%
	Average percentages		65.3%	59.6%	70.2%

are highly unrepresentative of the Court's activity, we estimated justice ideal points using the full set of cases decided during the Roberts Court as well as the ten cases that we surveyed respondents about. As explained below, these two sets of ideal point estimates were highly correlated.

We attempted to achieve two objectives in describing the cases. First, we needed to faithfully represent what the main issues of tension were in the case. Second, we sought to describe the issues in the case in a straightforward manner that could be easily digested by survey respondents. Of course, one could have worded the cases differently or have selected different cases. Accordingly, we construct our estimates using multiple cases. Further, we show that our estimates are robust to the exclusion of any individual case, suggesting that the results are not sensitive to any particular question wording or selected case. An important point to note is that we are not assuming that the process of responding to a survey question is equivalent to the procedures that the Court undertakes to reach a decision. Cases involve intricate justifications and are often marked by concurrences that exhibit complexity beyond the ruling issued by the Court (see [Lax \[2011\]](#) regarding doctrine versus disposition). We believe that our approach is preferred if one wants to ask the behavioral question of whether the public agrees with the Court's actions. For our estimates to represent meaningful comparisons of the views of voters and the decisions of the Court, it suffices to assume that survey respondents would generally have preferred the Court to cast a decision in line with their own stated position on each case.

Using not only these cases but also the entire set of cases decided between October 2005 and June 2010 (beginning with the appointment of Chief Justice John Roberts), we scaled all eleven justices who heard cases during this period in a one-dimensional ideological space. In addition to estimating the ideological positions of each justice, we estimate the location of the Court as a whole by including it as a separate voter, with the Court voting for the majority disposition on each case.<sup>8</sup> We also separately estimate the ideological locations of each of the first three Roberts natural courts by including them as "voters" whose votes are determined by the majority decision on each case.<sup>9</sup> Because

8. Strictly speaking, the inclusion of the Court's majority position as a separate actor violates the conditional independence assumption of the statistical model described below. This inclusion, however, has essentially no effect on the resulting estimates, with the two sets being correlated at above 0.99.

9. By "natural court," we mean the set of nine justices that are serving on the Court at a given time. Over our period of study, there are three natural courts; the Court changed composition with the retirements of Associate Justices Sandra Day O'Connor and David Souter and with the respective appointments and confirmations of Justices Samuel Alito and Sonia Sotomayor. We did not ask about any cases voted on by the most recent natural court, which began with the appointment of Justice Elena Kagan. The votes of each natural court on cases that were decided during other natural courts are treated as missing, just as they are when a specific justice does not cast a vote on a given case.

it reflects the composition of the Court at the time the survey was fielded, we use the estimated position of the third Roberts natural court as our measure of the Court's location.<sup>10</sup>

To jointly estimate the ideologies of CCES respondents, justices, the Court as a whole, and the three natural courts, we followed the approach introduced by Clinton, Jackman, and Rivers (2004). A two-parameter ideal point model is assumed in which the probability of a given actor, whether a respondent, justice, the Court, or a specific natural court, agreeing with the Court's majority on the disposition of a given case is

$$P(v_{ij} = 1) = \Phi(x_i\beta_j - \alpha_j),$$

where  $v_{ij} = 1$  when actor  $i$  agrees with the Court's majority on case  $j$  and equals zero when he or she disagrees,  $x_i$  is actor  $i$ 's ideal point (ideological position), and  $\beta_j$  and  $\alpha_j$  are the discrimination and difficulty parameters, respectively, for case  $j$ .<sup>11</sup> In order to identify the model, the restrictions are imposed that the Court's position is zero, respondent ideal points have standard deviation one, and higher (more positive) ideal points indicate more conservative ideological positions.<sup>12</sup> The key quantities of interest from the model will be the ideal points  $x_i$  for respondents, the Court, and individual justices.<sup>13</sup>

As a basic check of the face validity of the estimated ideal points for survey respondents, we examined their relationship with self-reported seven-point liberal-conservative ideology. Respondent ideal point and self-reported ideology are highly correlated, which is expected since these issues tap the traditional liberal-conservative dimension (a boxplot of ideal point by ideology is presented in online appendix figure A1).

10. The estimated positions of the first and second Roberts natural courts were nearly identical, with the first being only slightly more liberal, reflecting the fact that Sandra Day O'Connor, rather than Anthony Kennedy, was the Court's median voter. The results reported below are similar regardless of whether we compare respondents to a particular natural court or the Supreme Court as a whole between 2005 and 2010.

11. Observations for those who do not cast votes on a case, either because they skipped a survey question, recused themselves from consideration on the Court, or were not sitting on the Court at the time of a decision, are treated as missing.

12. The model is run in an unidentified state, and the identifying restrictions are imposed afterward through post-processing each iteration.

13. The model is estimated through a Gibbs sampling algorithm using the `MMCirt1d` function in the `MCMCpack` R library. We use the function's default settings for prior distributions, which assume independent standard normal priors on all ideal points  $\mathbf{x}_i$  and independent normal priors with mean zero and variance 4 on all case parameters  $\beta_j$  and  $\alpha_j$ . The sampling algorithm was run for 1,100,000 iterations, with the first 100,000 iterations discarded and the remaining iterations thinned to save every 250th iteration, leaving a total of 4,000 iterations stored. As pointed out by Ho and Quinn (2011), item response models using "bridging" observations to link actors across different institutions can suffer from multimodal posterior distributions, complicating inference. In order to orient the ideological space appropriately, we restricted the ideologies of Justice John Paul Stevens to be negative and that of Justice Clarence Thomas to be positive. Furthermore, we restricted the ideologies of respondents who gave consistently liberal (conservative) responses to the surveyed cases to be negative (positive).

Additionally, as noted above, the ideal points of the justices estimated using our ten selected cases are very similar to the ideal points estimated using the entire set of cases decided during the Roberts Court (see online appendix figure A2 for more details). Respondent ideal points line up quite closely across these two scalings, correlating at above 0.99. It should be noted that even if these ten cases were completely representative of the Court's full docket over this time period, we would expect there to be significant random variation due to the fact that we are, under one approach, estimating ideal points based on only ten particular cases. While this will be expected to wash out in the aggregate when we look across 1,500 respondents, the small number of justices makes it especially important that we utilize all available information to learn about their ideological locations, which we do by scaling all of their votes during this time period.

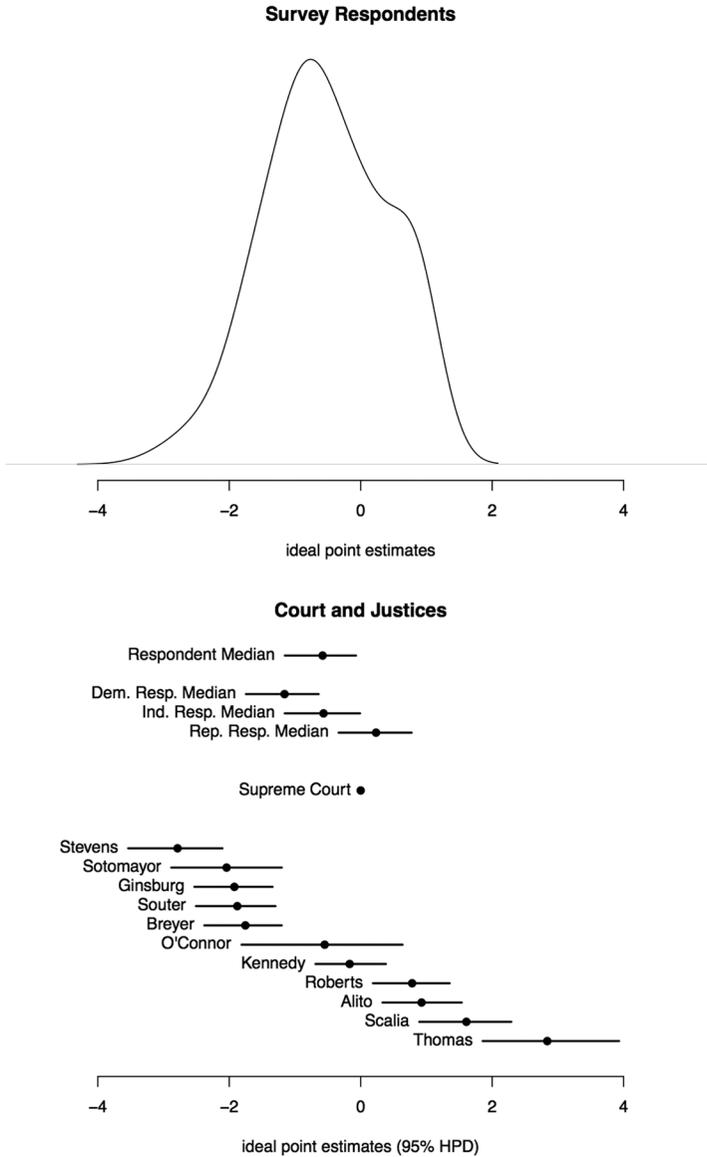
Furthermore, the ideal points were also estimated dropping each case individually to ensure that the overall results were robust to the exclusion or inclusion of any single case. Online appendix figure A3 shows that the results of these ten separate scalings are quite similar overall, suggesting that the ideal point estimates are not strongly affected by any of the individual cases included in our survey.

To measure respondents' subjective perception of the Court's ideological location, we asked: "Do you think the Supreme Court is too liberal, too conservative, or about right in its decisions?"

## Results

We first plot the distribution of respondent ideal points along with the ideal points of the Court and the individual justices. As shown in [figure 1](#), the Court's decisions generally accord well with public opinion. The estimated ideal point of the Court is 0 (by construction), and the estimated position of the median respondent is  $-0.58$ , slightly to the left of the Court. Of the respondents, 69 percent fall within one sample standard deviation of the Court's position.<sup>14</sup> This concordance arises from the fact that the pivotal justices in recent history—Anthony Kennedy and Sandra Day O'Connor—have been center-right in their ideological dispositions. Nonetheless, in response to the question asking about people's subjective perceptions of the Court, only 41 percent of people said that the Court's ideological location was "about right," with 33 percent saying that it is "too liberal" and 26 percent saying that it is "too conservative" (see [table 2](#)). As one would expect, partisanship is strongly related to perceptions of the Court's ideology ( $p < 0.001$ ), with Republicans being most likely to say that the Court is "too liberal," Democrats being most likely

14. Even though the Court's ideal point is generally in line with mass opinion, several individual justices have extreme judicial ideologies outside the mainstream.



**Figure 1. Respondent, Court, and Justice Ideal Point Estimates.** Top pane plots density of estimated respondent ideal points. Bottom pane plots estimates (posterior means) for the ideological position of the median respondent as well as medians by party identification and the estimated positions of each justice (Court's position is fixed at zero to identify the model). Horizontal bars indicate 95-percent highest posterior density regions.

to say that it is “too conservative,” and the majority of Independents thinking that its decisions are “about right.”<sup>15</sup> Additionally, those with more knowledge about the Court are more likely to view it as out of step ( $p < 0.001$ ).<sup>16</sup>

Are people’s perceptions of whether they are out of step with the Court accurate? The survey design and estimation approach employed here provide a uniquely direct way to answer this question. We can examine people who subjectively reported that the Court was “too liberal” or “too conservative” and compare their individual ideal points (based on how they would have voted on the cases) to the Court’s actual positions (based on how the Court actually voted on the cases).

Generally, respondents did a good job in locating the Court in relation to their own positions. As shown in [table 3](#), only 13 percent of respondents misperceived, either being to the left of the Court but viewing it as “too liberal” or being to the right of the Court and seeing it as “too conservative.” However, misperceivers are much more likely to be those thinking the Court is “too liberal” (12.0 percent versus 1.3 percent;  $p < 0.001$ ). The boldfaced entries of [table 4](#) indicate respondents who misperceived the Court’s ideological position; 17 percent of the people whose ideal points are *actually to the left of the Court* say that it is “too liberal,” while only 4 percent of the people with ideal points *actually to the right of the Court* say that it is “too conservative” (difference significant at  $p = 0.004$ ).<sup>17</sup> [Figure 2](#) illustrates this imbalance. We plot the distributions of ideal points for people perceiving the Court to be “too liberal” and “too conservative” along with the Court’s position (which is fixed at zero). The dark gray area represents people who are to the left of the Court but think it is “too liberal”; the light gray region represents people who are to the right of the Court but say that it is “too conservative.” As shown, the area of the dark gray region is much larger than the area of the light gray region.

Two points deserve special attention. First, Republicans are much more likely to misperceive the Court’s location than Democrats.<sup>18</sup> As shown in [table 4](#), among Republican respondents to the left of the Court, 46 percent (nearly half) said that the Court was “too liberal,” while among Democratic respondents to the right of the Court, only 19 percent said that the Court

15. To assess statistical significance in contingency tables such as these, we correct all chi-square statistics for survey design effects using the two-step procedure described by [Rao and Scott \(1984\)](#). The test statistic is distributed  $F$ .

16. We assessed knowledge by asking three factual, multiple-choice questions about the Court. Roughly half of respondents (48.9 percent) answered all three of these questions correctly, making this a useful cutoff for dichotomizing respondents into low- and high-information categories (see appendix for details).

17. When we report a  $p$ -value after noting two proportions, the significance test refers to the difference in proportions.

18. Partisanship is measured in the CCES using the branched procedure used by the American National Election Study (see appendix). Following [Keith et al. \(1992\)](#), leaners are pooled together with partisans.

**Table 2. Perceptions of Supreme Court Representativeness**

	Full sample <i>n</i> = 1,500	Republicans <i>n</i> = 645	Independents <i>n</i> = 201	Democrats <i>n</i> = 654	High knowledge <i>n</i> = 733	Low knowledge <i>n</i> = 767
Too liberal	32.6%	62.1%	26.6%	10.1%	36.7%	30.4%
About right	41.2%	31.9%	53.8%	43.9%	29.8%	47.3%
Too conservative	26.2%	5.9%	19.6%	46.0%	33.5%	22.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

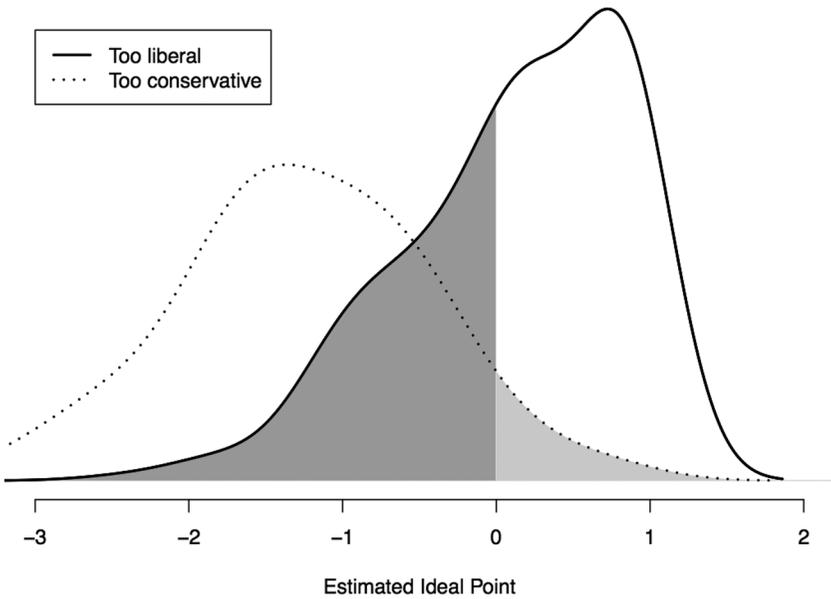
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About right	41.2%	31.9%	53.8%	43.9%	29.8%	47.3%
Inaccurate perception						
Too liberal	12.0%	16.6%	14.7%	6.9%	7.4%	14.4%
Too conservative	1.3%	1.5%	0.5%	1.6%	0.1%	2.0%
Accurate perception						
Too liberal	20.7%	45.5%	12.0%	3.2%	29.3%	16.0%
Too conservative	24.9%	4.5%	19.2%	44.4%	33.4%	20.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**Table 4. Misperceptions of Supreme Court Representativeness**

Perception of Court	Actually to the left of the Court					Actually to the right of the Court					
	Full sample (n = 958)	Reps (n = 201)	Inds (n = 143)	Dems (n = 614)	High know. (n = 397)	Full sample (n = 542)	Reps (n = 444)	Inds (n = 58)	Dems (n = 40)	High know. (n = 336)	Low know. (n = 206)
Too liberal	17.3%	45.7%	18.0%	7.6%	13.3%	66.7%	71.5%	65.1%	37.5%	65.7%	67.6%
About right	46.7%	42.0%	58.6%	43.9%	26.4%	29.0%	26.2%	32.4%	43.7%	34.0%	23.9%
Too conservative	36.0%	12.3%	23.5%	48.6%	60.4%	4.3%	2.3%	2.5%	18.8%	0.3%	8.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

NOTE.—Respondents misperceiving ideological location of the Supreme Court are in boldface.



**Figure 2. Density of Respondent Ideal Points by Court Perceptions.** Densities of estimated ideal points plotted for respondents who believe that the Court is “too liberal” (solid line) and “too conservative” (dotted line). Dark (light) shaded areas indicate respondents who are incorrect in their perceptions, either being to the left of the Court and believing that it is too liberal (dark area) or being to the right of the Court and believing that it is too conservative (light area).

was “too conservative” ( $p = 0.12$ ).<sup>19</sup> Second, Independents were much more likely to misperceive the Court as “too liberal”; 18 percent of Independents to the left of the Court thought it was “too liberal,” while only 2.5 percent of Independents to the right of the Court thought it was “too conservative” ( $p = 0.002$ ). Given that Republicans and Independents together constitute 56 percent of the sample, overall misperception of the Supreme Court is much more likely to be in the direction of misperceiving it to be “too liberal.”

Interestingly, respondents’ level of knowledge about the Court is strongly related to their probability of misperceiving its location. As shown in [table 3](#), low-knowledge respondents were nearly twice as likely to misperceive the Court as too liberal: 14.4 percent versus 7.4 percent ( $p = 0.003$ ). While low-knowledge respondents were also more likely to misperceive the Court as too

19. Although this difference is not significant at conventional levels, there were particularly few Democratic respondents who were to the right of the Court ideologically, reducing the precision of the proportion estimate.

conservative—2 percent versus 0.1 percent ( $p < 0.001$ )—both rates were very low.<sup>20</sup>

Table 3 also catalogues the misperceivers in detail. Surprisingly, even among Democrats with inaccurate perceptions, there are more than four times as many respondents misperceiving the Court to be “too liberal” compared to “too conservative (6.9 percent versus 1.6 percent;  $p = 0.02$ ). As it stands, the overall percentage of respondents believing the Court to be “too liberal” (combining correct perceivers and misperceivers) is 6.5 percentage points larger than the percentage of those perceiving the Court to be “too conservative” (32.7 percent versus 26.2 percent;  $p = 0.046$ ). Looking at respondents’ actual, rather than perceived, positions relative to the Court, however, results in a sharp reversal of this imbalance. If we reclassify the subjective perceptions of misperceivers based on their actual distance, we find that more people would perceive the Court as “too conservative” if their perceptions were accurate (22.0 percent versus 36.8 percent;  $p < 0.001$ ).

## Conclusion

These misperceptions can be consequential. Using observational and experimental evidence, Bartels and Johnston (2013) show that subjective perceptions (including misperceptions) affect people’s support for the Court. Our data also provide evidence that ideological distance is related to reduced specific support for the Court (see online appendix B). These patterns also help explain recent public discourse regarding the Supreme Court. Even though the Court, often through Anthony Kennedy’s pivotal vote, has generally exhibited similar preferences to those of the American public, much of the rhetoric around the Court highlights particular rulings that are anathema to Republicans, including recent decisions to uphold race-based affirmative action, repeal anti-sodomy laws, sanction key parts of Obamacare, and require civilian trials for enemy combatants, among others.<sup>21</sup>

An open question is how these misperceptions affect judicial behavior. While some scholars have argued that the Supreme Court responds to mass

20. Table 4, in which we condition on respondent ideological location relative to the Court, reiterates this pattern, although not definitively in terms of statistical significance. Among low-knowledge respondents to the left of the Court, 19 percent inaccurately perceived the Court as “too liberal,” compared to 13 percent of high-knowledge respondents ( $p = 0.11$ ). A similarly sized knowledge gap in the percentage of misperceptions was observed for respondents to the right of the Court; however, the percentage of misperceivers was lower in both subgroups: high-knowledge 0.3 percent versus low-knowledge 8.5 percent ( $p < 0.001$ ).

21. For example, see Schlafly (2004) and Levin (2005), as well as Newt Gingrich’s recent statement in the 2012 Republican presidential primary calling for subpoenaing justices to testify before Congress to “explain” their decisions (and enforcing those subpoenas with arrests), clearly violating the separation of powers.

opinion (Stimson, MacKuen, and Erikson 1995; Casillas, Enns, and Wohlfarth 2011), others have argued that citizens are persuaded by Supreme Court actions (Mondak 1992; Cummings and Shapiro 2006; Bartels and Mutz 2009) or that any correspondence is due to selection effects (i.e., the nomination and confirmation process selects for judicial nominees that can survive veto pivots and are therefore close to the median voter [Krehbiel 2007]). Given that a substantial portion of people misperceive the Court's location, it is important to disentangle these causal mechanisms and determine if these misperceptions influence judicial decision-making.

## Appendix: Measurement of Moderating Variables

### PARTY IDENTIFICATION

In order to measure party identification, the CCES followed the standard, branched procedure used by the American National Election Study of first asking respondents: "Generally speaking, do you consider yourself a Republican, a Democrat, an Independent, or what?" and then asking stated partisans to report the strength of their attachment ("Do you consider yourself a strong or not strong Republican/Democrat?") and non-aligned respondents to report whether they lean toward one party ("Are you closer to the Republican Party or the Democratic Party?"). Following Keith et al. (1992), leaners are pooled together with partisans in all analyses.

### KNOWLEDGE OF THE COURT

We asked three questions to assess how much knowledge people had about the Supreme Court: (1) "To the best of your knowledge, how many justices sit on the Supreme Court?" (response options: "seven," "eight," "nine," "ten," "eleven," "not sure"); (2) "To the best of your knowledge, how are justices chosen for the Supreme Court?" (response options: "elected by voters," "chosen by the president and confirmed by Congress," "chosen by Congress and confirmed by the president," "not sure"); (3) "To the best of your knowledge, who is the Chief Justice of the Supreme Court?" (response options were Chief Justice John Roberts and the ten associate justices who served under him, along with "not sure"). The order of the names of justices was randomized. Roughly half of respondents (48.9 percent) answered all three of these questions correctly, making this a useful cutoff for dichotomizing respondents into low- and high-information categories.

## Supplementary Data

Supplementary data are available online at <http://poq.oxfordjournals.org/>.

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